

REPORT  
of the  
Hindu Religious and Charitable  
Endowments Committee  
United Provinces



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# Report of the Hindu Religious and Charitable Endowments Committee, United Provinces.

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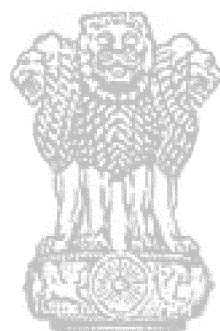
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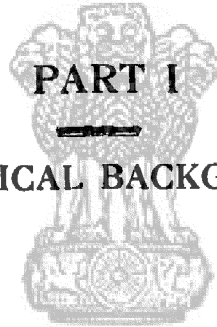




सत्यमेव जयते



**PART I**  
**HISTORICAL BACKGROUND**



सत्यमेव जयते



# Report of the Hindu Religious and Charitable Endowments Committee, United Provinces.

## CHAPTER I.

### INTRODUCTION.

1. *Constitution of the Committee.*—The Hindu Religious and Charitable Endowments Committee was appointed by a Resolution of the Government of the United Provinces No. 47/XVI—335, dated January 27, 1928, to consider what means, if any, could effectively be taken to secure the better administration and supervision of the public religious and charitable endowments, institutions and funds of the Hindu community in these provinces.

2. *Personnel of the Committee.*—The Committee, as originally constituted, consisted of the following members :—

- |   |            |
|---|------------|
| (1) The Hon'ble Raja SIR RAMPAL SINGH, K.C.I.E.,<br>Kurri Sudauli, district Rae Bareilly. | President. |
| (2) Swami ATMA SWARUP JI, Vyakhyan Vachaspati,<br>Guru Mandal Ashram, Hardwar.            |            |
| (3) Swami MANGAL NATHJI, Moni-ki-Reti, Rishikesh,<br>district Dehra Dun.                  |            |
| (4) Mahant DHARAM DAS JI, Panchaiti Akhara,<br>Allahabad.                                 |            |
| (5) Pandit RAM VALLABHA SARANJI, Janki Ghat,<br>Ajodhya.                                  |            |
| (6) Goswami MADHUSUDAN LALJI, Radha Raman<br>Temple, Brindaban.                           |            |
| (7) Swami DAYANANDJI, Bharat Dharma Mahamandal,<br>Benares.                               |            |
| (8) R. S. NARAYANA SWAMIJI, No. 25, Marwari Gali,<br>Lucknow.                             |            |
| (9) Pandit GOVIND BALLABH PANT, M.L.C., Naini<br>Tal.                                     | Members.   |
| (10) Rai Bahadur Pandit KANHAIYA LAL, Retired<br>Judge, High Court, Allahabad.            |            |
| (11) The Hon'ble Justice Pandit GOKARAN NATH<br>MISRA, Judge, Chief Court, Lucknow.       |            |
| (12) Pandit VENKATESH NARAIN TEWARI, M.L.C.,<br>Allahabad.                                |            |
| (13) The Hon'ble Raja (now Sir) MOTI CHAND,<br>C.I.E., Benares.                           |            |
| (14) Pandit BRIJNATH SHARGA, Advocate, Ranikatra,<br>Lucknow.                             |            |
| (15) Pandit RAMA KANT MALAVIYA, Advocate, High<br>Court, Allahabad.                       |            |



3. *Secretary of the Committee.*—Pandit Suraj Nath Sapru, B.A., a member of the Provincial (Executive) Service, United Provinces, was appointed Secretary of the Committee; but he was unable to take charge of his office till March 20, 1928; and the Committee was therefore unable to commence work before that date.

4. *Changes in the personnel.*—The Committee suffered many vicissitudes during the course of its work. Early in its career it lost two of its prominent members.

One of them, Goswami Madhusudan Lalji of Brindaban, was one of the leading members of the Vaishnava community at Muttra. He had been ailing for some time and died on May 11, 1928, before he could attend any of the meetings. His knowledge of the state of management of Vaishnava endowments, his earnestness in the cause of their proper administration and his influence with the Vaishnava community were valuable assets for the Committee, which it was deprived of by the cruel hand of death.

The other, Swami Mangal Nathji of Rishikesh, was a devout Sannyasi, held in high esteem for his learning and piety. In spite of his advanced age, he attended every meeting of the Committee at great personal inconvenience and took a very active part in its deliberations (including the preparation of the questionnaire) till, after a short illness of a few hours, he suddenly expired on June 11, 1928. His vast knowledge of the condition of Hindu endowments in these provinces, and the immense influence which he had over the Hindus, had given him a unique position in the Committee. He was, in fact, the father of Temple Reform movement in the United Provinces; and the appointment of this Committee was the crowning success of his efforts of several decades in this direction. The Committee cannot too deeply deplore the loss which it has suffered in Swamiji's sudden and unexpected death before his life's work was finished.

The Government appointed Swami Madhu Sudan Achariji of Banda and Swami Adwaita Nand Ji of Rishikesh in their places. Swami Madhu Sudan Achariji attended the enquiry at Muttra, Brindaban, Hardwar, Rishikesh and Dehra Dun, and took a keen interest in the consideration of measures for the protection and preservation of Hindu religious and charitable endowments. The Committee suffered a great loss by his death, from heart-failure, on June 1, 1929.

It suffered another very heavy loss by the sad and untimely death of the Hon'ble Mr. Justice Gokaran Nath Misra, after a short illness, on July 5, 1929. Mr. Justice Gokaran Nath Misra took part in the enquiry at Muttra, Brindaban, Allahabad, Lucknow and Cawnpore, and had made a careful study of the conditions prevailing at the other



places visited by the Committee or the sub-committees deputed by it. The Committee greatly deplores his loss at a time when it stood in very great need of his advice and help in the consideration and determination of the measures to be recommended to the Government. The President and some of the members of the Committee had, from time to time, during the course of the enquiry, opportunity to discuss some of the matters forming the subject of the enquiry, with the late Hon'ble Mr. Justice Gokaran Nath Misra; and the earnestness with which he used to discuss the subject and present his view-point makes them deplore, all the more keenly, the loss of his valuable assistance, which would have been of enormous value to them.

There was great delay in the selection of the persons to fill these vacancies, in consequence of a general desire that the different stand-points and interests should be adequately represented on the Committee. On November 30, 1929, the Government eventually appointed Swami Prakashanand Ji Saraswati and Rai Rajeshwar Bali, O.B.E., an Ex-Minister in the United Provinces Government, to fill these places.

On February 9, 1930, Pandit Govind Ballabh Pant, M.L.C., resigned for political reasons, unconnected with the work of the Committee, with which he was in full sympathy; and on July 19, 1930, Rai Bahadur Babu Kavindra Narain Sinha, M.L.C., was appointed in his place.

5. *Co-opted members.*—The Committee was authorized by the Government to co-opt two members, if it found it necessary, to complete its enquiry. The Committee co-opted Lala Nemi Saran, M.L.C., a member of the Jain community, and Pandit Shyam Behari Misra, M.A., a retired Deputy Commissioner, to help it in its work.

6. *Co-opted local members.*—The Committee was also empowered to co-opt, when necessary for any local purpose at any locality, a person with local experience to help it in its work. Pandit Mathura Prasad Naithari, Civil Engineer, was thus co-opted to assist the Garhwal sub-committee. He attended every sitting thereof (undertaking an arduous journey in very inclement weather at great personal sacrifice for the purpose) and, by his intimate knowledge of and immense influence in Garhwal, proved very helpful to that sub-committee. Goswami Krishna Chaitanya Ji was similarly co-opted at Brindaban and proved very helpful, too.

7. *Terms of reference.*—The Resolution of the Government appointing the Committee covers a wide scope. It requires the Committee to examine the whole question in all its aspects and advise what steps if any, should be taken to provide for the better governance, administration and supervision of the public religious and charitable endowments,



institutions and funds of the Hindu community, including Dharamshalas and Dharmadayas, and other institutions of the like nature (Appendix A).

8. *Genesis of the Committee.*—It will not be out of place here to refer briefly to the circumstances which gave rise to the formation of the Committee. On March 31, 1927, a resolution was moved by Babu Jai Narain Chaudhri, M.L.C., in the United Provinces Legislative Council, recommending to the Government "to appoint a representative Committee to draft a Bill to provide for the better governance, administration and supervision of Hindu religious and charitable endowments, including those charitable funds held by commercial firms, to which the public customarily has to contribute." He pointed out that some of these endowments were managed by a committee of trustees and were managed well; while others were in a neglected condition and their management was bad; and there was every likelihood that, after a short time, they would become extinct<sup>(1)</sup>. He explained that what was wanted was not that the Government should interfere with religious celebrations or ceremonials for which the endowments were meant, or should interfere with the rights and powers of the trustees, who had been appointed to administer them, but that the Government should see that these endowments were managed properly and that the purpose for which they were founded was attended to and carried out effectively and efficiently<sup>(2)</sup>.

An amendment to the resolution was moved by Pandit Nanak Chand, M.L.C., suggesting that, for the words "draft a Bill" the words "advise what effective steps be taken" be substituted. In doing so, he observed: "There is a general feeling that at least some, if not all, of these endowments are not properly managed and large sums of money are either misappropriated or misapplied. There is a strong Hindu feeling on this point; and Hindus, who take interest in these endowments, feel that there is an urgent and pressing necessity for devising some means by which the funds of these endowments may be properly used for the objects for which these endowments were created"<sup>(3)</sup>.

The resolution so amended was accepted, on behalf of the Government, by the Hon'ble Rai Rajeshwar Bali, the then Minister in charge of the subject, in language even stronger than that used by the previous speakers. He said: "I quite realize that a number of these endowments which were created for certain religious or charitable purposes are being seriously mismanaged; and I feel the need of some sort of better

(<sup>1</sup>) Proceedings of the Legislative Council, United Provinces, Vol. XXIX, p. 429.

(<sup>2</sup>) *Ibid.*, p. 431.

(<sup>3</sup>) *Ibid.*, p. 432.



provision for their supervision and governance more keenly than many others . . . Sir, I know that there is a section of people among the Hindus, who wish to do away entirely with these endowments, and who wish that the money that was lavishly spent on these endowments should be spent for a better purpose, but there are others also, who are as orthodox Hindus as any one could be, and who believe that even if we do not do away with these endowments, we should at least try to see that the purpose for which these endowments were created should be served. I know by personal experience of a number of temples myself where the purposes for which those endowments were created are not carried out''<sup>(4)</sup>. He pointed out that it would be much better that, instead of the Committee being asked to draft a Bill, it should recommend the first principles on which the Bill should be based, and he urged that in a matter like that, none would like to proceed without a proper expression of opinion by those whom those measures were going to affect<sup>(5)</sup>.

These extracts will suffice for explaining the considerations which led to the formation of the Committee and the constitution assigned to it, representative of different classes and interests.

9. *Only public funds included.*—It will be noticed that, in the resolution accepted by the Government and passed by the United Provinces Legislative Council, the enquiry was not, in terms, expressly confined to *public* religious and charitable endowments, institutions and funds. But it is obvious from the context and the trend of the debate that *private* trusts were *not* intended to be included; and this was made clear by the Resolution of the Government appointing the Committee, confining the enquiry to the public endowments, institutions and funds created for the benefit of the Hindu community, including any sect or section of the Hindu public.

10. *Questionnaire.*—The Committee was thus anxious from the beginning to ascertain the views and opinions of every section of the public concerned or interested in the matter; and with this object, issued an exhaustive Questionnaire (Appendix B) designed to elicit information about the existing endowments, institutions and funds; their management, income and expenditure; and the measures, if any, needed for their protection and better management. The questionnaire was issued to all leading men in these provinces and the heads of different religious institutions and other public bodies. At the same time, for the convenience of those not conversant with, or willing to enter into,

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<sup>(4)</sup> *Ibid.*, p. 435.

<sup>(5)</sup> *Ibid.*, p. 436.



the details of the various points of enquiry, a brief questionnaire comprising ten general questions was appended, to enable them to express their views on the broad questions at issue. Copies of the questionnaire were also sent to different English and Vernacular newspapers for publication.

11. *Response received.*—The Committee received written replies from 673 persons, including 401 intimately connected with endowments and 11 from public bodies, representing the collective opinions of a much larger number. The Committee further distributed the questionnaire at every place visited by it in the course of its enquiry; and these methods had the effect of arousing a wide public interest in the question, as evinced by the large number of addresses and collective representations and resolutions received by it from time to time.

12. *The enquiry.*—The Committee visited, in the course of its enquiry, Allahabad, Cawnpore, Karwi, Chitrakot, Lucknow, Hardwar, Rishikesh and Dehra Dun, while sub-committees were deputed to visit Fyzabad, Benares, Muttra, Brindaban, Mirzapur, Bindhyachal and Garhwal (Appendix C). These sub-committees collecting valuable evidence materially expedited the enquiry and curtailed the time and expenditure which would have been required otherwise. Of these, only the Garhwal and Mirzapur sub-committees submitted reports (Appendices D and E).

The total number of the witnesses orally examined was 556, including 12 Sikhs and 21 Jains. Out of these, 237 were Mahants or priests or other persons connected with the management of religious institutions (Appendix F).

At each place visited, the members of the Committee or sub-committee present visited important temples and other religious institutions and obtained first-hand information as to their general working and conditions, including the manner in which, in some instances, the endowed property had been alienated, or the turn of worship, or the right to priestly office, mortgaged or sold to persons outside the priestly body, including also men of other religious persuasions or faiths.

It was natural that, at some of these places, some persons in charge of the management of religious and charitable endowments who were invited to give evidence before the Committee avoided appearing before it, feeling, it may be, some apprehension at the possibility of some supervising agency being set up in connection with their administration, but, vested interests apart, there was everywhere a general feeling that a welcome step had been taken for devising some means for the remedying of existing neglect or mismanagement, and for the prevention of the misapplication of endowed funds or property in contravention of the objects for which they were endowed.



## CHAPTER II.

## HISTORICAL RETROSPECT.

13. *Brief description.*—Before proceeding to enter into a detailed examination of the existing laws to meet the present situation, it will be useful to refer briefly to the origin of endowments, their kinds, and the extent and the nature of the supervision exercised over them during the periods of the Hindu (including Buddhist) supremacy and Muhammadan rule, and the legislative measures subsequently introduced by the British Government for the purpose.

14. *Origin of endowments.*—"The origin of trusts, or rather the adaptation of them to the English Law, may be traced in part at least to the ingenuity of fraud. By the interposition of a trustee, the debtor thought to withdraw his property out of the reach of his creditor, the free-holder to intercept the fruits of tenure from the lord of whom the lands were held, and the body ecclesiastic to evade the restrictions directed against the growing wealth of the church by the Statutes of Mortmain," (1) in passing which, declared Lord Hardwicke, Legislature had it particularly in view "to prevent persons in their last moments from being imposed on to give their real estate away from their families, for by that means, in times of Popery, the clergy got almost half the real property of the kingdom into their hands; and he wondered they did not get the rest, as the people thought they thereby purchased Heaven. But it was so far from being charity or piety, that it was rather a monument of impiety and of the vanity of the founders (2)."

On the other hand, the present system of Hindu endowments is the evolutionary product of the religious history of the people from the most ancient times. Its roots can be traced back even to the Vedas. Manu calls upon each wealthy man continuously and sedulously to "consecrate pools or gardens with faith . . . and with riches honestly gained" (3). The ruling motive of every Hindu making an endowment is a religious one, namely, the acquisition of pious merit or the removal of the effects of sin with a view to happiness in this world and in the next (4). The earliest trace of endowments is found in a

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(1) Lewin on Trusts, p. 1.

(2) *Attorney-General versus Day*, 1 ves. sen. 223 Boyle, pp. 70-71.

(3) Manu IV, 226.

(4) Saraswati's Hindu Law of Endowments, p. 29.



rule of Gautama Dharma Sutra, in connection with the partition of inheritance, "Water or property distrained for pious uses or sacrifices and prepared food shall not be divided" (5). The entire objects of Hindu endowments are included in the expression *Ishtapurtam*, occurring in the *Rig Veda* (6), which has come down to our own times.

15. *Endowments in Hindu times.*—The Hindu Law books call the purely religious gifts as *Ishta*, which includes public guest-houses and temples and the other semi-religious charities; and *Purta*, under which are counted planting of trees, establishment of gardens and hospitals, excavation and renovation of wells, tanks, ponds and lakes (7). It is interesting to find "resting places on the road" mentioned in the *Rig Veda* (8). Sometimes these gifts are called *Dana-dharma* (9) and sometimes *Yoga-kshema* (10). According to *Manu* and *Parasara* (11) *Dana* is the chief *Dharma* of the *Kaliyuga*, and might be, according to *Devala*, of four kinds, viz., *dhruva* (perpetual), *ajasrika* (ample) or *vimala* (pure), *Kamya* (desirable) and *namittika* (occasional), and would comprehend the endowments of temples, *Annasatras*, *Dharamshalas*, hospitals, schools, tanks, wells, ponds, free education, and the like.

The *Smritis* tell many interesting examples of charitable and religious endowments. *Brihaspati*, for instance, refers to public halls (*sabha*), temples, tanks, (*prapa*) rest-houses, wells for the supply of drinking water, construction of water-courses and places of worship, endowments for the performance of religious rites by the poor, and other forms of modern Poor Law Relief.

The endowment of learning is extolled as a superior gift, (*atidana*) in the *Upanishadas* of the *Sama Veda* (12) and the *Bhavishya*, the *Padma* (13) and other *Puranas* (14). The religious merit of endowing water-supply is extolled in the *Matsya Puran* (15) and also in the *Mahabharata* where it is valued as highly as the *Ashvamedha* sacrifice.

Temple is the most common form of Hindu endowments; it is also one of the ancient forms. While according to *Max Müller* (16) "the

(5) *Gautama Ch. IX, ss. 12, 13; Max Müller's Sacred Books of the East, vol. II, p. 218.*

(6) *Mandala, X 14, 8.*

(7) *Likhita Dutt's edition (1—6 Atri Dutt's edition) 43—46 and Sankha, quoted in Hemadri, Dana Khanda Bib. Ind. p. 20 and Sudra Kamalakara.*

(8) *Mandala II, 166, 9.*

(9) *Manu, Dutt's edition, IV, 226-227.*

(10) *Gautama IX, 12, 13, Manu IX, 219.*

(11) *Parasara I, 22, Manu I, 86.*

(12) *Hemadri, Dankhandam, p. 20.*

(13) *Uttarabag, Ch. 174.*

(14) *Ch. 117.*

(15) *Ch. 58.*

(16) *Chips from a German workshop, vol. I, p. 38*



religion of the Veda knows of no idols," Dr. Bollensen <sup>(17)</sup> is of opinion that the hymns contain clear references to images of the gods. Later Vedic literature, however, contains unequivocal evidence of the existence of images of gods and of temples raised for their accommodation <sup>(18)</sup>.

The Agama Shastras go so far as to count as essential adjuncts to a temple "a tank, a grove, a chaultry, a school, and a lecture hall" <sup>(19)</sup>.

16. *Inscriptions*.—The inscriptions also tell of endowments for the provision of temple lights, food for gods, processions on festival days, etc., from different individual donors, who might make their gifts in cash or kind, such as land, gold, sheep or cow. They tell also of two main classes of religious and charitable foundations, viz., the Maths and educational institutions maintained in association with temples. Some inscriptions from the Kurnool district speak of a big Math, the Golaki Math, as something like a university with its spiritual control owned by over 3 lakhs of villages under a succession of famous teachers. A number of South Indian inscriptions tell of endowments for a school for the teaching of Panini's grammar (called Vyakarana-dana-vyakhyana-mandapa), for a Vedic School and its attached hostel for students, and a hospital with 15 beds and a staff comprising 1 physician, 1 surgeon, 2 servants, 2 maid-servants to act as nurses, and 1 general servant, together with a store of medicines named. A remarkable inscription of the Guntur district <sup>(20)</sup> tells of the endowment of an entire village or religious colony equipped with a temple, monastery, feeding-house, Brahman settlements or homesteads, schools of the particular Sampradayas, a maternity home, and a hospital. Three teachers taught the three Vedas and five taught logic, literature, and the Agamas. The colony was also equipped with its own police and craftsmen, goldsmith, coppersmith, mason, bamboo-workers, blacksmith, potter, architect, carpenter, barber and artisan. The feeding-house was open to all castes including chandalas. This self-contained colony was governed by its own Sampradayik committee. Some inscriptions again record gifts made for the maintenance of a Sastra and of teachers of Sastras, such as Vedas, the Puranas, the Darsanas, Vyakarana and the like.

One inscription records the gift to a temple of 44 villages for the support of teachers and students of the Vedas and of ascetics. An inscription of the time of King Rajendra Chola (C. 1023 A. D.) records the gift to a temple of a village for maintaining a Vedic College and

<sup>(17)</sup> Muir's Texts, vol. V, p. 453.

<sup>(18)</sup> Weber's History of Indian Literature, p. 69 and p. 152. Weber's *Adbhuts Brahman*, p. 335; Gautama XIX, 14.

<sup>(19)</sup> Uttar Kamika Agama, Ch. 67.

<sup>(20)</sup> Madras Ep. Report for 1917, p. 122.



Hostel, where were in residence and fed 75 students studying the Rig Veda, 75 studying the Yajur-Veda, 80 studying other branches of Vedic literature, 25 Vyakarana, 35 Mimansa, 10 Vedanta, making up a total of 340 students, while the teachers were 10 in number. Besides these colleges there were also established by special benefactions learned settlements for the undisturbed pursuit of religion and knowledge, which were called by the names of Ghatika, Agrahara and Brahmapuri. These were governed by their own Sabhas or committees. An inscription in Mysore refers to one such colony made up of 7 Brahmapuris, 3 Puras, 5 Maths and several Agraharas. Another mentions the subjects of study in these institutions to include the 4 Vedas with their Angas and Upangas, besides Mimansa, Lokayata, Baudha, Sankhya, Vaiseshhika and other Sastras and Agamas; 18 Smritis together with Puranas, Kavyas and Natakas. A Nellore inscription mentions the endowment of such secular or scientific studies as Rasa, Rasayana (Chemistry), Padanjana, Ghutika, Kanyaka-Vada (Erotics), Mantra-Vada, Dhatu Vada (Metallurgy), Dhumra-Vada, Garuda-Vada (Ornithology) and Rasa-Vada (applied Chemistry) <sup>(21)</sup>.

Without further multiplying these ancient examples of religious-benefactions, it will be evident that their purpose was not always confined to the construction of temples of gods or maintenance of their worship, but was extended very often so as to include the maintenance of temples of learning or means of relief of human suffering in connection with the temples proper. It was felt that the service of man was another mode of serving and worshipping God.

17. *Administration of endowments in Hindu times.*—From the forms and purposes of the ancient Hindu religious and charitable endowments, we now proceed to a brief reference to their administration. The administration of the Temple and Trust properties was naturally modelled on the lines of the political administration. Hindu polity did not believe in a centralized administration but stood on principle for local liberty, for self-government for all recognized groups, sects and communities, which made up the Indian people. The result of this system was that while there was a king at the top, his absolutism was effectively checked by a vast subterranean democracy, the self-government of the people below. The eighteenth century European doctrine of the limits of state interference was the guiding principle of Hindu polity through the ages, which had thus left the people to themselves and their own institutions of self-government for the administration and control of their municipal and national interests, such as education,

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<sup>(21)</sup> The U. P. Dharma Rakhshana Sabha's Memorandum—Historical Retrospect by Dr. Radha Kumud Mukerji.



religion and the like, on the basis of their own system of local finance. The sovereign was not the source of law but was the sanction. Law was found for him and enforced by him. The sources of Hindu Law were Sruti, Smriti, Sishtachara (Practices of the pious), and the opinions of the pious (Parishad) on doubtful points; and on the basis of these sources, the different recognized groups and communities in the country legislated for themselves, and so our law-giver Manu lays down: "Whatever may have been practised by the pious, and by such twice-born men as are devoted to *dharma*, that only the king shall establish as law if it be not opposed to the laws of Jati (castes), janapada (communities) sereni (guilds) and kula (clans)." Thus the sovereign under the Hindu Law was the upholder of the *dharma* in his capacity as the Danda or the executive authority. His duty was to ensure that the constitution and rules of discipline adopted by different religious bodies were not violated by their members. India in Hindu times was practically governed by a net-work of small village republics, and the temple was an important school and sphere of self-government for the village, like the village Sabha or Assembly. The temple inspired and sustained private piety; private piety thus strengthened was stimulated into gifts; the constant stream of gifts called for arrangements for their proper administration which thus gave the people an opening for public service and scope for self-rule. The temple properties and offerings assigned by the public were of various forms and kinds and required diverse talent for their proper administration. A regular bureaucracy of officers was created for the work. Thus we read in the inscriptions of officers "that attend on the sacred feet of God", "in charge of sacred inside of the temple", "in charge of organized charities", and "in charge of the sacred precincts of the temple", besides a variety of menial servants, all placed under a managing committee or Sabha, on which were represented the particular sect claiming the temple, the temple treasury, the village administrative assembly and other local interests. Sometimes the village administrative Sabha took over the temple management; sometimes, the two Sabhas, the political assembly and the temple assembly, co-operated. An inscription records an agreement of both, authorizing their Accountant to collect taxes from the people for the temple. Another refers to a committee of enquiry into temple affairs on which were represented the Government, the merchants, and the sect concerned. The ground of connection and co-operation between the temple and the village Government lay in the fact that the village Sabha generally made itself responsible for the administration of numerous trust properties of which the temple was the beneficiary. A very interesting mediaeval inscription of about 10th Century A. D. found in village Ahar in the Anupshahr tahsil of the Bulandshahr



district, United Provinces, has brought to light the continued practice of Goshthis (temple committees) receiving and administering endowments for temples <sup>(22)</sup>. In the present instance, endowments in the shape of buildings for the worship of the goddess Sri Kanaka or Kanchan Sri Devi were made by two merchants, viz., Bhadraprakasha and Maumka, along with a third, a banker of the Sauvarnika community whose name appears to be Drava or Dravya, from the rents of which the materials for the daily worship of the Deity were to be provided by the Committee (Goshthi) entrusted with the management of the same. An inscription records how the guilds of the oilmongers of Kanchi and its suburbs, and those of 24 Nagaras assembled in a meeting and decided to give away to the temple as Jatidharma taxes on their oil mills. Another inscription relates how "the merchants of the Nadus, towns, hills and 5 Mandalams and foreigners make a gift of  $\frac{1}{4}$  per cent. of the cost of all bags exported and imported at the port of Kistnapatam." These gifts paid in cash or kind were entrusted invariably to the village committees and not individuals, however trustworthy. They were paid to the guilds, temple committees, or the village administrative Sabhas. The form and legality of the transaction will be evident from the following typical passage in a Tanjore inscription recording the gift of gold made by a donor to a village assembly for the permanent supply of light for a temple. "Having received these gold pieces, we, the members of the assembly (Sabha), shall have to bring every year to the temple 100 *naî* of *ghi* and shall have to pour it out by the standard measure as long as the moon and sun shall last." A Nasik cave inscription relates how Usavadata, son-in-law of King Nahapana, gave a perpetual endowment of 3,000 Kahapanas for the benefit of monks, 2,000 deposited with a weavers' guild with interest at 1 *pratika* monthly per cent. and 1,000 with another guild with interest at three-fourths of a *padika* monthly per cent.; and these Kahapanas "were not to be repaid, interest only to be enjoyed." We have thus here examples of village corporations acting as banks to receive fixed deposits to be held as trust-funds of which the principal, called Akshayanivi in a Gupta inscription, they were to keep intact, and be liable for, and might invest in their own way subject to that liability, just as banks do with their deposits, but for the use of that money they had to pay interest at certain stipulated rates to the beneficiary named in the grant <sup>(23)</sup>.

18. *Examples of how State responsibility was discharged.*—The responsibility of the State in the matter of these religious and charitable

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<sup>(22)</sup> Edited in United Provinces Historical Society's Journal by Mr. C. W. Chatterji, M.A., Lecturer, Lucknow University.

<sup>(23)</sup> The U. P. Dharma, Rukshana Sabha's memorandum—Historical Retrospect by Dr. Radha Kumud Mukerji.



endowments is also laid down by Kautilya and exemplified in some of the measures and institutions of Asoka. Kautilya refers in his *Artha Shastra* to superintendents of religious institutions (*Devatadhyaksha*), who were required to collect the various kinds of property of the gods in fortified cities and country places, and keep them in safe custody. He also refers to managers of charitable institutions, who were required to send information to local officers as to any heretics (*pashanda*) and travellers coming to reside therein <sup>(24)</sup>. Asoka also created a special department, a separate Ministry of Morals to look after the moral and religious interests of the people (C. 250 B.C.) These special officers were called *Dharma Mahamatras* who, according to his pillar edict VII, had to look after the different sects of the country (*sarva-pasandas*), such as "the Buddhist Sangha, the Brahmanas, the Ajivikas, the Nirgranthas, and others," i.e., followers of different denominations, Brahminical (orthodox Hindu or *Barnasrami*), Buddhist, Jain, Ajivika, etc., and to deal with public religious and charitable benefactions, especially those of the royal family. The *Shukra Niti* similarly refers, among other things, to the appointment of an officer in charge of religious establishments and the supervision of charities <sup>(25)</sup>; and significant reference is made by Kali Das to the existence of such an officer in one of his dramas. When *Shakuntala* was molested by bees and enquired if there was no one there to protect the inmates of the hermitage from molestation, King *Dushyanta* turned up and said: "Having been appointed by the descendants of the *Puru* kings to the department of religion (*Dharmadhikare Niyuktah*), I have come to enquire about the unimpeded progress of your religious rites."

19. *Later inscriptions*.—Later inscriptions also afford testimony to the fact that a Hindu State was fully alive to its responsibility for the protection of endowments. For instance, in an inscription evidencing the treaty made between the Raja of Cochin and the Dutch East India Company, it was stated among other things, "As we are obliged to protect individually the temples *Palaynus*, *Tiruvulla Mallee*, etc., we should do so in a regular manner;" and, in another inscription, it is related that King *Abhiram* summoned the learned and asked them whether gifts or protection was better, and the reply which he received was that of the two (gift and protection), protection was superior; by gift one attained Heaven, but by protection the imperishable state <sup>(26)</sup>."

*Modern judicial pronouncements*.—Modern judicial pronouncements to the effect that ancient States exercised some sort of superintendence

<sup>(24)</sup> Sham Shastri's *Artha Shastra*, English Translation, pp. 181, 244.

<sup>(25)</sup> *Shukra Niti*, II, 241, 327—332.

<sup>(26)</sup> *Travancore Archaeological Series*, vol. I, pp. 11, 108—113.



over such endowments should be read in the light of the foregoing. In a dispute regarding the management of the Dakoreji temple in the Bombay Presidency, West, J., referred, among other papers, to a document showing that the native governor of the fort at Pavaghar exercised a visitatorial power to prevent waste of the temple property by either the Tambekar, who was managing the dedicated villages, or the *sevaks* holding the accumulated offerings at the shrine; and he pointed out: "Under the native system of government, though it was looked on as heinous offence to appropriate to secular uses the estate that had once been dedicated to pious uses, yet the State in its secular, executive and judicial capacity habitually intervened to prevent fraud and waste in dealing with religious endowments" (27). In *Raja Muthuramalinga Setupati versus Perianayagum Pillai* (28) their Lordships of the Privy Council dealing with a dispute about the appointment of a manager to the temple of Rameshwaram observed: "It is evident that before that Regulation (VII of 1817), the British Government, by virtue of its sovereign power, asserted as the former rulers of the country had done, the right to visit endowments of the kind and to prevent and redress abuses in their management. There can be little doubt that this superintending authority was exercised by the old rulers." These decisions did not enter into the question of the nature and the extent of the authority of the State in respect of endowments, nor should they be taken to lay down that the authority of the State was untrammelled by the rules and regulations of the ecclesiastical body concerned.

20. *Endowments under Muhammadan rule.*—Now, coming to the period of the Muhammadan rule, we find that the Muhammadan Kings exercised, through the Qazis, all necessary and reasonable control, over the Muhammadan Waqfs in accordance with the Muhammadan Law, and that the position of Hindu religious and charitable endowments during that period, remained practically unaffected. The Muhammadan kings generally accepted the same responsibility with regard to these endowments, as was acknowledged by their predecessors; and, except during abnormal periods when religious intolerance was at its worst, the Muhammadan rulers of India considered it proper, or at least expedient, to make some provision against the deterioration and decay of Hindu temples by neglect or peculation; and, in some cases, they even added to their endowments.

In this connection, we would like to lay special stress on the fact that generally under Muslim rule, except under the abnormal conditions already referred to, the Hindu religious and charitable endowments

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(27) *Manohar versus Lakhmiram*, I. L. R., 12 Bom., 247 at pp. 260, 262.

(28) L. R., I. L. A., 209, pp. 232-233.



were left absolutely intact, to be guided by their own traditional rules and regulations, under the control of their ecclesiastical hierarchy, the efficiency whereof continued absolutely unimpaired until the advent of British rule in India.

The Muhammadan kings also made, from time to time, various grants for the support or maintenance of Hindu Sadhus, ascetics and saints to hold good, free of any rent or liability, so long as the purpose for which they were made was carried out.

21. *Endowments under British rule.*—The period of the British rule in India is perhaps the most important in the history of the religious and charitable endowments, institutions and funds of the country. With the introduction of the British methods of administration and their system of dispensing justice, the sanction for the enforcement of the traditional usage by the ecclesiastical hierarchy disappeared. Their decisions could be and were challenged before the ordinary courts of law; they had no authority left for the maintenance of discipline which they had been enjoying from times immemorial. In other words, the control of the community could “not be maintained under the present law” <sup>(29)</sup>. However, the East India Company took upon itself, in the beginning, the supervision of Indian religious endowments. By various treaties, the British Government stipulated that they would maintain public trusts, or pay punctually for establishment of religious and charitable institutions, fixed sums of money, either by way of interest on moneys received by them for the purpose, or for other considerations. For a long time the servants of the East India Company supervised the administration of the various religious and charitable trusts of the Indian community.

22. *Legislation in the dawn of the British rule.*—Further, the British Government brought on the Statute Book a definite legislation containing specific and detailed provisions for the due appropriation of grants made for the support of mosques, Hindu temples. etc., and for the maintenance and repair of religious and charitable works of a public nature. This legislation <sup>(30)</sup> defined, in very clear and unambiguous language, the attitude of the British Government with regard to Indian endowments of a religious and charitable nature, and was enacted with the manifest intention and effect of not merely continuing and maintaining, but also of publicly proclaiming to the world as its own policy, the policy that had been in vogue under the previous rulers.

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<sup>(29)</sup> Letter of the Officiating Commissioner, Orissa division, No. 66C½, dated August 20, 1868.

<sup>(30)</sup> Regulation XIX of 1810 in Bengal which applied to these Provinces and Regulation VII of 1817 in Madras.



*Government's duty admitted.*—The preamble to the Bengai Regulation recited that considerable endowments had been granted in land by the preceding governments of this country and by individuals, for the support of mosques, temples, colleges and for other pious and beneficial purposes, and that there were grounds to suppose that the produce from such lands was, in many instances, being appropriated contrary to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments; and declared that it was an important duty of every government to provide that all such endowments be applied according to the real intent and will of the grantor, and also to arrange for the maintenance and repair of bridges, Serais, Kuttras and other buildings, erected either at the expense of Government or of individuals for the use and convenience of the public.

*Arrangement therefor.*—The Regulation proposed to provide for the due appropriation of lands granted for public purposes, agreeable to the intent of the grantor, and disavowed any intention to resume any part of the produce of them for the benefit of the Government. The general superintendence of all such lands was, by that Regulation, vested in the Board of Revenue, which was charged with the duty of taking care that endowments made for the maintenance of establishments of the above description were duly appropriated to the purposes for which they were destined by the Government, or the individuals who had created them. The Collectors were appointed local agents of the Board for this purpose, and were required to obtain full information from the public records and by personal enquiries, respecting all endowments, establishments and buildings of the nature above described, and of Nazul property or escheats; and to report to the Board, any instances in which they had reason to believe that the lands or buildings were improperly appropriated. They were enjoined, in all cases, to be careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals. They were also asked to report the names, together with other particulars, of the present trustees or managers of the several establishments described above, and to report from time to time, any vacancies occurring, with full information of all circumstances to enable the Board to judge of the pretensions of the person or persons claiming the trust, particularly whether the succession had been theretofore by inheritance, or by election, and, if so, by whom; or by nomination by the founder, the Government or its officers. In cases where the appointment was vested in the Government or any public officer, or was subject to its or his confirmation, the Board was empowered to make enquiries, through the Local Agents, as to the person best entitled or fitted to succeed to the management of the trust and to pass suitable orders in regard thereto.



23. *Confirmation of this policy by the Court of Directors.*—The principle of the Bengal Regulation, affirming State supervision of public endowments, was confirmed by the Court of Directors <sup>(31)</sup>, who wrote to the Madras Government that “a line of conduct may be drawn by which, without infringing on religious liberty or interfering with jealous scruples of the people, the Government might intervene so as to prevent the misapplication of funds to mischievous purposes <sup>(32)</sup>. The Court of Directors, in fact, were prepared to go further than the Regulation, when they sent to the Government of Madras the Despatch, dated May 6, 1838, <sup>(33)</sup> containing the following passage: “The question is, whether it is competent to the Government to enquire into the endowments made by the State in former times for religious and charitable purposes, and on discovering that they are more than sufficient for the particular purposes intended in making the endowments, to appropriate the surplus to other purposes by which the community will be benefited, instead of letting it to be hoarded unprofitably or applied to the private advantage of individuals. It appears to the Board to be not only unobjectionable but positively a duty on the part of Government to interfere in such a case, and to take the appropriation of the surplus into its own hands, taking care that the particular district in which the endowments are situated should derive full benefit from the new appropriation of the surplus.”

24. *Actual working of the Regulations.*—It is important to note that the principle enunciated here was not merely one of those happy ideas intended to remain on paper. For a long time the Government, acting under the above Regulations, exercised effective and stringent control over the management of Hindu temples. These measures resulted in general satisfaction with the management of Hindu endowments. Indeed, the supervision exercised by the Government over the management of Hindu temples, was one of the many beneficial acts by which, in its early days, the British Government endeared itself to the hearts of its Indian subjects.

25. *Hostile missionary agitation and consequent withdrawal of Government connection.*—This happy state of things, however, did not last long. In or about 1839, the Christian missionaries in England raised their strong voice of protest against the policy of the Government, by which it identified itself with the management of Indian religious endowments. They started a strong agitation for the withdrawal of Government control and demanded the repeal of the Regulations which sanctioned the continuance of that policy. They asserted

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<sup>(31)</sup> Despatch to the Government of Bengal, dated December 10, 1823, Elliott's report. dated March 1, 1845.

<sup>(32)</sup> Chamier's report, dated May 18, 1844.

<sup>(33)</sup> Chamier's report, dated May 18, 1844.



that it was no part of the functions of a Christian Government to lend its support to heathen religions by administering Hindu or Muhammadan endowments, or even to the extent of providing for the maintenance of Hindu temples and Muhammadan mosques. The Government found themselves in a serious predicament. On the one hand, they had to meet the solid voice of the missionaries at home and in India, clamouring for the immediate withdrawal of its connection with Indian religious endowments; and on the other, they had to consider the strong opposition of their Indian subjects, coupled with even stronger protests of some of its most experienced officers against such a course. But the matter was not left long in doubt. The influence of the missionaries prevailed in the end; and, in accordance with the orders issued from time to time by the Home Government, the connection of the Government with Indian religious endowments in this country was wholly withdrawn between 1839 and 1842, a period during which England was making statutory provision for better control of public charities at home. Indeed, even after the Government's decision had been definitely taken, the pressure of the missionary influence on the Government could be seen still active, behind the numerous orders of the Home Government, which forced the Local Governments in India not only to withdraw all their connection with the Indian endowments, but to withdraw it immediately and at any cost.

26. *Protests by British Officers of the Madras Government unheeded by the Home Government.*—In this connection, the demurrant action of the Madras Government and the censure which it thereby brought upon itself from the Home Government, furnish very interesting though pathetic reading. The Home Government in its despatch No. 2, dated March 3, 1841 (Revenue Department), addressed to the Government of India, said: "It is a matter of much concern to us that the same progress on this important subject has not been made at Madras as at the other presidencies; and we are of opinion that the dilatory proceedings of the Governor-in-Council would have justified even more severe animadversion than was conveyed in your Secretary's letter of August 10 last. We are desirous that you should allow no further time to be lost in following them (instructions for withdrawal issued by the Government of India) out." And the Court of Directors insisted on the complete withdrawal by the Government of all connection with the Indian religious endowments, institutions and funds; and they pointed out "that the administration of affairs and funds of the native religious institutions should be vested in individuals, professing the faith to which the institutions belong and who may be best qualified to conduct such administration with fidelity and regularity, being responsible, together



with their subordinate officers, to the courts of justice for any breach of the duties assumed by them, which can be made the grounds of a civil action."

Mr. Elliot, a member of the Indian Law Commission, Madras, submitted to the Government a celebrated memorandum, dated March 1, 1845; and referring therein to the Bengal Regulation, XIX of 1810, and the Madras Regulation, VII of 1817, he observed that "the Government could not renounce a duty so solemnly undertaken and withdraw its officers from a charge imposed upon them under such a sanction, without any adequate provision for the due execution of the charge, so far as it had till then extended, by other agency, or leave the interest concerned without protection" (<sup>34</sup>).

Referring to the same matter, the Hon'ble Mr. Chalmers observed :  
 "To make over the funds to the trustees, to be dissipated at their pleasure in vice and debauchery, will make the measure of withdrawing from interference with the religious institutions of the country more unpopular than now it is, and will be a cause of deep concern to the respectable portion of the native community, who will be able to discern no reason why the permanent good of the native community should not be consulted in preference to the temporary gratification of a few individuals (<sup>35</sup>).

27. *Disastrous results of the new policy.*—In these circumstances was complete severance of the Government with Indian religious endowments accomplished by 1842. Between 1843 and 1863 no supervision of any kind was exercised over them, though the Regulations still remained in force. We firmly believe that the decision of the Government was very unfortunate in the interests of Hindu religious endowments. It has been responsible for the greatest injury resulting to them, traces of which are visible even up to this day. But, while we intensely regret the decision taken by the Government, we regret still more the manner in which that decision was carried out. The Government did not pause to think for a moment what would happen to the hundreds of thousands of Hindu temples, some of which had endowments worth lakhs of rupees, temples with lofty traditions, glorious history and great architectural beauty, after the control over them was withdrawn. We shall not be so uncharitable as to assume that even if the Government had any idea of the grave consequences that were to result from its action, it would still have willingly made itself a party to the said scheme for effecting the spoliation and ruin of these beautiful edifices of Hindu

(<sup>34</sup>) Papers submitted to the House of Commons on the connection of the Government with idolatry in India, dated August 1, 1849, pp. 415-16.

(<sup>35</sup>) *Ibid.*, p. 277.



religion and culture. We need not say anything about the English missionaries. But the actual result was that the Government withdrew from all responsibility, without, at the same time, making any adequate provision, as was its duty to do, for the satisfactory discharge of that responsibility, by means of another suitable agency. The Government simply left the institutions at the mercy of their trustees, Mahants or managers, or of a committee, to be managed or mismanaged, according to their individual whims and fancies, unfettered by any check or control whatsoever. Where such trustees, Mahants or managers did not already exist, new men were appointed by the Government to act as such. As was to be expected, these men finding themselves subject to no authority but their own, in most cases, played hell with the temple properties and revenues. In some cases, the lands attached to the endowments were in the cultivation of ryots; and they were thus suddenly left in the lurch, without adequate protection, to face unauthorized exactions by the trustees or managers. In other cases, moneys had accumulated in the course of management of these institutions under the control of the Government, which it was anxious to utilize in furtherance of purposes of public utility connected with the institutions, or on the means of communication to the locality where they were situated. The Government ignored the interests of the former but retained the latter for the purposes mentioned.

28. *Policy reiterated by Queen Victoria's Government.*—Conditions grew so much worse from day to day, that they could no longer be ignored. The Government of Her Majesty Queen Victoria, who assumed direct sovereignty over India by the famous proclamation of 1858, realized not a day too soon, the necessity of restoring order in the chaos, and removing the anomaly that existed, owing to the Government under the East India Company severing all connection with Indian religious endowments, even while the Regulations remained on the statute book, and the liability imposed by them had never been legally cancelled. But the procedure actually adopted for getting over the anomaly in question was, unfortunately, the contrariwise one of practically reiterating and legalizing the previous Government's policy in connection with the religious endowments in question, without any positive provision for their protection from spoliation. In his Despatch No. 2 (Legislative Department), dated February 24, 1859, after reiterating the principle laid down by the previous Government that "in everything connected with religious worship, and with the management of their religious endowments, the people of India should be left entirely to themselves", the Secretary of State for India observed as follows :—

' Paragraph 6.— . . . It is evident that the total withdrawal of all interference on the part of the Government with the



religious institutions of the people of India has not been completed, and indeed, it is difficult to perceive how such a result can be fully obtained, so long as a law, which declared it to be the duty of the Board of Revenue and its subordinate officers, to take care that all endowments of land, or of the land revenue, made for the maintenance of religious establishments, were to be duly appropriated to the purpose for which they were destined by the Government, or the individuals by whom such endowments were made, remains in force."

"*Paragraph 7.*—Respecting the degree of protection to be afforded to the religious institutions of the people of India, the sentiment of Her Majesty's Government are essentially those of the Court of Directors, as above referred to. It is the duty of the Government of India to see that these institutions enjoy the equal and impartial protection of the law; but it is not called upon to provide specially for their management or superintendence by its own officers. It appears then to Her Majesty's Government that the repeal of the Regulations in question, or such parts of them as relate to the management of religious endowments, should no longer be delayed; provision being made at the same time for an appeal to the established courts of justice, in all disputes relating to the appointment and succession to the management of Hindu and Muhammadan religious institutions, and to the control and applications of their funds. I request that you will take the necessary steps for bringing the subject under the consideration of the Legislative Council."

29. *Home Government's lead taken by the Government of India.*—

The Government of India lost no time in taking the lead thus given, nay, even went beyond its instructions, and introduced a short Bill in the Legislative Council, for the total repeal of Regulations XIX of 1810 of the Bengal Code, and VII of 1817 of the Madras Code, in relation to the management of both *religious and charitable endowments* without any distinction, and without paying any heed to the fact that the Despatch of the Secretary of State for India referred only to religious institutions, and made no suggestion of any kind with regard to other than religious institutions. After two readings, the Bill was forwarded to the Local Governments for their opinion <sup>(36)</sup>. The Government of India did not omit to point out, at the same time, "that the instructions of the Secretary of

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(36) Letter of the Government of India, Home Department, No. 986, dated May 11 1860.



State are imperative on the point of divesting the fiscal officers of Government of all control over, or concern in, the management of such endowments"; and they probably went further than was intended, in stating that "the only point to be considered is, how to provide for the future due execution of trusts which have been assumed by or even devolved on Government, so that every protection, which the ordinary tribunals of the country can afford, may be provided to prevent misappropriation of the property belonging to any of the endowments, to which the Regulations now to be repealed have been applied", for the Bill, as actually moved, simply sought to repeal the Regulations in force, and made no other provision. The attitude of the Government can be gathered from the speech delivered by the Hon'ble Sir Bartle Frere (mover of the Bill) before the Legislative Council on April 28, 1860, in which it was stated, that he could not see any good in burdening a general measure of this kind, with a multitude of separate provisions, for the better administration of trusts which were so varied in character and requirements.

30. *Repeal of the Regulations opposed by experienced officers of the Government.*—Without being unjust and unfair to any party, we have already expressed above our opinion, as regards the decision taken by Government to sever all connection with Indian religious endowments, and the manner in which its decision was carried out. We shall now cite the opinions expressed by some of the British Officers of the time on the proposed Bill for repealing Regulation XIX of 1810. Although they were the officers concerned with the general administration and, on that account, intimately conversant with the condition of these endowments, as they then existed; and although they were also in a detached position regarding these questions, yet their observations failed to be considered with that weight which was their due. Both the people and the district officers who were consulted on the matter felt keenly, and dwelt clearly on the need for a supervising agency. We shall content ourselves by quoting relevant extracts from their writings, as the whole matter is often too lengthy to admit of being compressed within reasonable space.

(1) *Collector of Etawah.*—The Collector of Etawah (North-West Province) writing in 1860, thus stated his opinion <sup>(37)</sup> on the Bill in question; " . . . There is nothing in the Secretary of State's Despatch (No. 2 of 1859, February 24) leading to the supposition that Her Majesty's Government contemplated the discontinuance of the administration by Government Officers of any trusts, except those of a purely religious character; and I wish to record my earnest belief that for many

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(\*) Letter No. 1861, dated July 12, 1860, from Allan Hume, Esq., Collector of Etawah, to the Officiating Commissioner, Second Agra division.



years to come, in these provinces at least, purely charitable and generally beneficial trusts must as hitherto, continue to be managed by district officers . . . It is a mistake to suppose that, in these provinces, the legal sanction of the civil courts would be sufficient to secure the proper expenditure of trust moneys for purely beneficial purposes. No one who is in a position to commence a civil suit, would personally suffer sufficiently by the misappropriation of the funds, to render it worth his while to sue . . . From many of these, the Government cannot disconnect themselves without either destroying them, or being guilty of a breach of faith." Commenting further on the Board of Revenue's suggestion, as regards the appointment of committees or Panchayats of trustworthy persons, to take charge of these public religious and charitable endowments on the Government's divesting itself of control over them, the same officer wrote as follows: "It is a delusion to fancy that, in these provinces, one half of any such endowments (appoint whom you will as Panchayats) will continue for five years . . . Nominate whom you will, I venture to predict that 75 per cent. of the first ten years' income will be embezzled . . . The time may come when the growth of municipal institutions, habits of self-reliance and public spirit might justify such a measure; at present it would be simply with eyes open to neglect a palpable duty to the past, the present and the future."

(2) *Collector of Moradabad*.—Another officer, the Collector of Moradabad, writing in the same year (1860), made the similar comment <sup>(38)</sup> that "the Secretary of State has expressed no opinion that any change of the law is required with regard to endowments of this (charitable and beneficial) character; and it seems unnecessary that any alteration should be made. The probable result of the proposed change in the law would be not only the ruin of the existing charities, but the prevention of any such endowments being made in future." Referring particularly to religious endowments he made the following observations: "The most important of the existing endowments for purposes of religion were founded by former sovereigns of the country. These, as well as the endowments made by private individuals, were made with the belief and understanding that the Government would ensure the proper execution of the trusts. Our own Government distinctly admitted and declared its acceptance of this duty; and it cannot properly withdraw from the responsibilities, which it has thus taken upon itself, until it shall have made arrangements which shall secure the future honest administration of the trusts. When interference in such matters has hitherto been the law and custom, the simple withdrawal of interference

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<sup>(38)</sup> Letter No. 74, dated July 23, 1860, from John Strachy, Esq., Collector of Moradabad, to the officiating Commissioner of Rohilkhand.



is in itself an act of interference . . . . To provide that all questions that may arise shall be determined by the ordinary courts of law is practically to provide for nothing." Further on, after stating that "the endowments are of two kinds; firstly those of a purely religious character, and secondly those founded for religious purposes, but in which important secular objects are also involved," the same officer observed, "whatever course be adopted with regard to the execution of conditions of a purely religious nature, I consider that to leave to the chance of the protection of the civil courts, in other words, to leave to the probability or rather to the certainty of injury and ruin, buildings such as those of the Jumma Masjid and Fatehpur-Sikree would be an act of barbarism, disgraceful to a civilized nation . . . . It seems to me that both classes of endowments must be treated alike and that the Government cannot withdraw from their administration, until arrangements are made, which shall afford complete security that the objects of the trusts shall continue to be carried out." In conclusion he wrote bitterly as follows:—  
 " . . . The proposed alteration of the law would lead to almost certain misappropriation of the funds of these endowments. It is the most honest course not to disguise this fact. It must, however, be remembered that this result is one of the scarcely concealed hopes and objects of the parties who force such measures as this upon the Government."

(3) *Commissioner of Rohilkhand*.—The above views were forwarded to the Board of Revenue by the Commissioner of Rohilkhand division to whom they were originally addressed. In his forwarding letter (<sup>39</sup>), the Commissioner definitely expressed himself opposed to the total withdrawal of Government control over native religious and charitable endowments; and commenting on the foregoing views of the Collector of Moradabad, he wrote as follows :—"The Board will see that, though I do not use the strong language of . . . (the Collector of Moradabad), I yet agree with him in thinking some provision necessary for the interposition of the Government."

(4) *Proceedings of the Board of Revenue, North-West Province, dated October 1, 1860*.—The Junior Member of the Board of Revenue (North-West Province) in his Minute, dated September 22, 1860, also urged leaving intact the provisions of the law with respect to endowments for beneficial purposes, unconnected with religion: and as regards religious endowments, he remarked: "The consequences of resigning the control which had been exercised over the revenues of temples, without simultaneously making adequate provision for their charge, are shown

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(<sup>39</sup>) Letter No. 287 of 1860, dated September 1, from W. Roberts, Esq., Officiating Commissioner, Rohilkhand division, to the Secretary, Board of Revenue (North-West Province).



in the report of the Commissioner of Kumaun; and the climax of disgraceful disputes which was reached in that province, would be renewed in other parts of the country."

It is not our purpose to unnecessarily burden our report with too many opinions of the description given above, even though, as we already stated, they have a special value in our eyes. It will be sufficient to say that, from our perusal of the Government records of that period, we are satisfied that, on the proposed Bill to repeal the Regulations, there was at that time a very overwhelming volume of opinion that pleaded for provision being made for excepting endowments that were maintained wholly for charitable objects, or where the objects were mixed, such parts of them as were recognized for such purpose. We think we may state, with almost equal certainty, that the only reason why these officers did not stand up with equal vigour against the Government divesting itself of all control over endowments founded for purely religious purposes, as they did in the case of the other endowments, was the restriction placed on them by the very clear mandate from the Government of India, that "the instructions of the Secretary of State were imperative on the point."

31. *Act XX of 1863 enacted.*—The history of individual institutions, and the manner in which they suffered in consequence of the withdrawal of Government supervision cannot be traced at the present time. But apparently, the Government perceived the force of the above arguments and objections for, as we see, the proposed Bill which sought to repeal the Regulations, without making any provision for the discharge of the responsibility undertaken by the Government under them, was withdrawn in favour of a comparatively more comprehensive measure of legislation on the subject. This was Act XX of 1863, which provided for the transference of the functions formerly performed by the Board of Revenue and its Local Agents, to a local body of "trustworthy persons" in each district, whose appointment was to be made for life.

32. *A horrid failure.*—We shall defer our detailed criticism of that Act to the next chapter. For the present, we shall merely content ourselves with the observation that it was probably the most imperfect piece of legislation that ever saw the light of day. By this Act, Local Committees were to be appointed for exercising the supervision vested in the Board of Revenue under the preceding Regulations; but their jurisdiction was limited to temples, the nomination of the trustees of which was vested or was subject to confirmation by the Government or a public officer; and other temples, which were under the preceding Regulations subject to the supervision of the Board of Revenue, were ignored. The net result was that, while the Act carried out the policy of severing



the connection of the Government with the management of the Hindu temples, it omitted to provide for the exercise of adequate supervision over a large and important class of temples which were under the management of trustees, who were originally hereditary, or claimed to have become hereditary in the meanwhile. The committees were not invested with any powers to remove any trustees, managers, or superintendents, or to enforce obedience to their orders except by the tardy and cumbrous process of a regular suit. The members of the committees were allowed to hold office for life and were not removable except for misconduct, and then too by a regular suit. This Act was passed, just about twenty years after the Government had virtually withdrawn its control from the administration of religious endowments and the expenditure of their revenues; and during all this period, despite the continuance of the old Regulations on the statute book, the endowments had been left with practically nothing for their protection. It was obviously enacted to relieve the Boards of Revenue and the Local Agents in the presidencies of Fort William and Fort St. George, from the duties imposed on them by the above Regulations, so far as those duties embraced the maintenance of the lands granted for the support of religious endowments and institutions. The Act was merely the outcome of the settled policy of the Government to withdraw all its connection with Indian religious endowments, a policy that has been responsible for causing the ruin of several important Hindu religious endowments and irreparable damage to many others.

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## CHAPTER III.

## GROWING DISSATISFACTION WITH ACT XX OF 1863 AND ATTEMPTS AT LEGISLATION.

33. *Committees dormant and demand for amendment of the Act.*—Before Act XX of 1863 had been for many years on the statute book, the inevitable happened. There was growing dissatisfaction with the manner in which the management of religious endowments was being conducted, without any effective supervision by the committees which had been appointed in certain places to exercise close and careful control over their income and expenditure. They rarely exercised the functions entrusted to them and, in many cases, became defunct soon after their creation. Thus, within a few years of its being passed, it was obvious to every one that the Act was a failure, and that its amendment was necessary. This need was not local, nor even provincial. It was felt throughout India.

34. *Views of Public Officers.*—On April 18, 1867, the officiating Commissioner of the Cuttack division, commenting on the working of the Act in Orissa (which was then a part of the Presidency of Fort William) wrote : “The result of Act XX of 1863 has been to leave the entire management of religious endowments, formerly supervised under Regulation XIX of 1810, in the hands of the hereditary or officiating priests and *pandas*. The revenues of the endowments are squandered or appropriated to private uses, while the services of temples or the charitable distribution of alms have been entirely neglected and abused”<sup>(1)</sup>. Officers in other parts of the country expressed their views almost in similar terms.

35. *Government of Bengal.*—The question was brought to the fore by the Government of Bengal in 1857 on the petitions sent by a number of Hindu gentlemen residing in Cuttack, Puri and Balasore, complaining that since Act XX of 1863 had been passed, the endowments of the Jagannathji temple, worth not less than four or five lakhs of rupees, had been entirely misappropriated, and that the object with which the British Government had confirmed the grants had been frustrated. In forwarding these petitions to the Government, the officiating Commissioner of the Cuttack division (the same officer referred to in the previous paragraph) wrote the following to the Secretary to the Government of

<sup>(1)</sup> His letter to the Board of Revenue, Lower Provinces. No. 93, dated Cuttack, April 18, 1867.



Bengal: " . . . There is a general and widespread desire, on the part of the respectable and conscientious Hindu gentlemen, to improve the administration of these endowments . . . While deprecating all direct interference of the Government, I think as Government has withdrawn its control from all native religious institutions and endowments, it is nevertheless bound to provide the native community with the power to exercise the same control which Government has relinquished, and which cannot be maintained effectively under the present law. Generally, throughout Orissa, the management of temples, *maths* and other religious endowments, is a scandal, and appears likely to remain so, until there is a stronger and more efficient system of management and supervision than that exercised by the local committees <sup>(2)</sup>.

36. *A Commission appointed.*—The aforesaid petitions, together with the Commissioner's remarks, were in due course forwarded to the Government of India by the Government of Bengal, with the very pertinent and significant observation of the Lieutenant-Governor thereon, that "the petitions may be taken to express a very general feeling." The Government of India observed that "the Governor-General in Council concurs with the Lieutenant-Governor in thinking that the petitions submitted by certain Hindu gentlemen in Cuttack, as regards the amendment of the law regulating the administration of religious endowments, expresses a prevalent feeling, and that on this account, and on their own merits, they deserve serious attention."<sup>(3)</sup>. At the same time, the Government of India expressed the need for a thorough enquiry into the actual state of religious and charitable endowments, and suggested the desirability of appointing a Commission for the purpose, before any action could be taken. The Government of Bengal thereupon appointed a Commission, consisting of three Indian gentlemen, to enquire into the condition of religious endowments in Orissa.

37. *Its findings.*—We do not propose to enter into any discussion of the various questions, which were dealt with by that Commission. We will only quote one extract containing the Commission's conclusions, with regard to the condition of Hindu religious and charitable endowments in that province. They go to show that the waste, misappropriation and squandering of the Hindu public religious and charitable endowments and their income, in our own part of the country, was not a condition peculiar to our province, but bore some analogy, in greater or less degree, to what was going on in Orissa and other provinces also,

(2) Letter No. 666½, dated Cuttack, August 20, 1867.

(3) Their reply No. 46, dated January 24, 1868.



and that the passing of Act XX of 1863 did not really help, in the slightest degree, to prevent the existing abuses. The Commissioners' Report is therefore of overwhelming general interest. Speaking about the condition of Hindu religious endowments in Orissa at that time, the Commissioners observed: "There are, in our opinion, ample grounds for the belief that the Mahants, as a class, have considerably degenerated. The high style in which they live, their expensive equipages and large and costly retinue, not to say anything of the pleasures and luxuries in which they indulge to the neglect of their proper duties, largely tend, as we think, to show that they are not as they ought to be, and as those that went before them were. Besides these, which to our mind bear internal evidence of misappropriation, there are the facts of direct and indirect alienations of parts of trust property in some cases, the large expenses of unnecessary law suits arising in some instances from disputes regarding succession, the excess of incomes over expenditures, which must be presumed to have been appropriated to the personal use of the managers, all which taken together, are calculated to prove that the properties which they hold in trust are misappropriated to a very large extent. We believe that there is enough in what we have shown, to produce a moral conviction as to the existence of abuses too great in extent and too flagrant in character, to be suffered any longer to remain unremedied. Such is our conviction; and we need hardly state, after the representations already laid before the Government what the public feeling on the subject is, a feeling in which we, from what we have all along witnessed and heard, fully share, and which is one of honest indignation at what is considered to be a gross abuse of trust, a public wrong."

38. *Action taken thereon.*—The report of the Commission, dated 1869, was submitted by the Government of Bengal to the Government of India, in the same year; and in 1871 the Government of India addressed the various Local Governments to examine the subject further, and added that "the Governor-General fears that the evils and abuses of the nature that are now brought to light prevail to a greater or less extent all over India."<sup>(4)</sup> The Government of India, at the same time, made it clear that "in making any changes which may be considered desirable, it is the wish of the Government to abide by the leading policy of Act XX of 1863," viz. the withdrawal of Government from any active concern with the management of these endowments. In response to the suggestion of the Government of India, the matter was taken up by the Government of these provinces and several high officers were

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(<sup>4</sup>) Home Department No. 51, dated January 5, 1871.



consulted; and a reference to the opinions received by it at the time fully shows that, even at that early period, there was a strong consensus of opinion, pointing to the deplorable mismanagement of such endowments and to the total inadequacy of Act XX of 1863 to restrain that evil.

39. *Actual results nil.*—But the actual practical result of all the correspondence in question was nil in all the provinces. Except for the very recent attempts (mentioned elsewhere in this report) to secure a new measure through the Bihar and Orissa Legislative Council and the Bengal Legislative Council, for the better administration of Hindu religious and charitable endowments in those provinces, the former of which, however, is no longer a part of the Presidency of Fort William, we do not know if the subject was explored any further by the Bengal Government which originally brought the question forward. We are, however, aware that the general feeling in the country, to which, we may presume, no province in India is an exception, has been anything but that of satisfaction, either with the management of Hindu public religious and charitable endowments in the country or with the manner in which the Government have discharged their obligation in respect of them.

40. *Attempted legislation in Madras.*—To illustrate this point more fully, we shall go briefly into the history of the question in Madras, where, more than in any other province, since the passing of Act XX of 1863 there has been a persistent demand for more effective legislation, and repeated attempts have been made to secure that purpose, only to be frustrated by the Government, who saw in every measure suggested to them, a possibility of their policy being violated.

(1) *Ramaiyengar's Bill, 1871.*—The Hon'ble V. Ramaiyengar, C.S.I., Additional Member of the Madras Government, in his minute, dated March 17, 1871, i.e., within three months of the issue of the Government of India's circular to all the Local Governments for examining the subject, made out an effective plea for the immediate revision of Act XX of 1863. Pointing to the deplorable condition of the Hindu religious and charitable endowments, and to the inefficiency of Act XX of 1863, he observed as follows:—"It is unquestionable that the Act, in this presidency at least, has failed to answer its purpose; that neither the committee nor the trustee, nor the general public, is satisfied with its working; and that the almost proverbial neglect of Pagodas and the management of their endowments form a stable grievance of the people in every district or place, where there is a religious institution of any note." Mr. Ramaiyengar made several suggestions for amending Act XX of 1863, and also drafted a Bill, which was in



due course submitted to the Government. It is not necessary for us to examine the various provisions of the Bill. We notice that it was circulated for opinion to the various public bodies, to Revenue and Judicial Officers in the service of the Government, and to leading men of the Hindu community, who all expressed the urgent necessity for amending Act XX of 1863. The Government, however, agreed with the Board of Revenue that "though it would be an improvement on the existing law, it was radically incomplete, and would certainly fail to attain the object."

(2) *Robinson's Bill, 1877.*—In 1876, however, the Government appointed a committee under the presidentship of Sir William Robinson, to draw up a fresh Bill on the subject. The following observations of that committee on the management of the property of religious endowments, institutions and funds, and the insufficiency of Act XX of 1863 to secure its purpose are worth quoting: "We abstain from entering, at any length, into the question of the extent to which the property of religious trusts of all kinds in this presidency has become wasted and deteriorated, under the almost uncontrolled mismanagement and malversation which have now prevailed for nearly 40 years, and we likewise refrain from further urging the inefficiency of the law, as it stands, to restrain this growing evil. Both questions have undergone full and protracted discussion on all sides, and it may be affirmed that the almost universal consensus of opinion, Native and European, official and non-official, conclusively points to a very general neglect of trusts, and to unchecked waste and spoliation of the valuable property, assigned in former times for the support of the religious institutions of the country. The weakness of the law is established by the fact that this grievous condition remains unarrested and almost unchallenged in the courts of law . . . . It is beyond the possibility of a doubt that, if Hindu religious endowments are to be protected from wholesale misappropriation, and in many cases, ultimate extinction for the benefit of a class of people, who make the worst possible use of the money, wasting it in profligate expenditure, the existing law must be altered."

This Committee also drafted a Bill suggesting the setting up of an administrative machinery, on the lines of the Charity Commissioners in England. We are not concerned with the details of the Bill. It is sufficient to say that the measure was acceptable to the Secretary of State for India <sup>(4)</sup>; but the Government of India were of opinion "that it was not desirable to proceed with this legislation during the next few months <sup>(5)</sup>".

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<sup>(4)</sup> Despatch No. 627, dated May 27, 1880.

<sup>(5)</sup> Their letter, dated March 9, 1881.



(3) *Carmichael's Bill*, 1883.—In actual result, the matter was postponed till 1883, when Mr. Carmichael, a member of the Madras Council, drew up a fresh Bill on the subject differing in many respects from Robinson's Bill and submitted it to the Government.

(4) *Sullivan's Bill*, 1884.—On receipt thereof, the Local Government appointed another committee in 1884, under the presidentship of Mr. A. F. Sullivan, to report upon the administration of religious endowments in that presidency. This committee, while supporting in the main the recommendations of the Robinson Committee, urged that the subject upon which their opinion was called for might receive early attention at the hands of the Government. Mr. Sullivan's Bill, however, did not meet with any better fate than those that preceded it.

(5) *Muthuswami Iyer's Bill*, 1894.—The matter thus rested until 1894, when another committee was appointed by the Government to consider the same subject, under the presidentship of Mr. Muthuswami Iyer. This committee, while reiterating the opinions previously expressed, as regards the utter mismanagement of Hindu religious endowments in that presidency, stated very clearly that "the feeling of dissatisfaction with the existing state of things has been increasing, year after year, to such an extent as to render legislation on the subject a matter of grave urgency". The committee drafted another Bill which was submitted to the Government of India but failed to meet with its approval.

(6) *Chentsal Rao's Committee*, 1898.—The Local Government then appointed another committee in 1898, under the presidentship of Mr. P. Chentsal Rao, for revising the Bill submitted by Mr. Muthuswami Iyer, and desired that "the committee in revising the previous Bill should make the proposed legislation acceptable to the Government of India, by taking care to maintain intact the policy of Act XX of 1863". Consequently, the Chentsal Rao Committee expunged from the previous Bill all such provisions as had even the appearance of permitting, in the slightest degree, the interference of the Executive, in the administration of the endowments of religious institutions. The Committee observed: "We are most anxious that the law should, without delay, be amended, at least to the extent proposed in the revised Bill, now submitted by us". This was the last of the series of attempts dating from 1871, made in the Madras Presidency, to secure the revision of Act XX of 1863, which was destined to prove no less infructuous than the rest.

(7) *Why the attempts failed*.—Speaking for ourselves, we might say that we do not consider any single one of them to have been calculated to violate the principle and policy underlying the Government's



withdrawal of connection with Indian religious endowments, as effected by Act XX of 1863. We are disposed to think rather, that the Government gave too much credit to the misleading reports engineered by certain vested interests to show that the cry for reform emanated from a handful of Hindus, belonging to the Western school of thought, while the general mass of Hindu opinion was likely to resent any change. In our opinion, it was this misapprehension on these reports, rather than any genuine fear of violating its settled policy, that led the Government to turn down every proposal for reform, made in the Madras Presidency between 1871 and 1898. That being our view of the matter, we entirely agree with the observation of the Chentsal Rao Committee "that the Government of India seem to be under a misapprehension in thinking that it is only those sections of the Hindu society, who have acquired Western knowledge and become imbued with Western modes of thought that are in favour of increased powers being taken for the regulation and control of religious endowments, and that the general feeling of Hindus is not only not in favour of legislation for this purpose, but would even resent it. We can confidently state that, so far as this presidency is concerned, it is a matter of complaint with the conservative section of the Hindu community that Government has not seen fit to make adequate arrangements for protecting Hindu religious endowments from peculation and waste; and there can be no doubt that any legislation for providing a workable machinery for the superintendence and control of the trustees and managers of these endowments, will be welcomed by all classes of the community, with the exception of such of the trustees and managers themselves, as, from interested motives, are averse to any efficient check or supervision being placed over them."

(8) *The Madras Hindu Religious Endowments Act, 1927.*—We thus find that all successive efforts made in the Madras Presidency to secure a satisfactory amendment of Act XX of 1863 proved of no avail, and after 1898, we must traverse a long period, before we come across any further attempt being made in this cause. It was only the Reformed Council which took up the matter again in 1923, and the Madras Hindu Religious Endowments Act finally found a place in the statute-book in 1927. It took 50 years to remove a want which was so generally felt, and even as it is, in our opinion the new legislation is vitiated by serious defects, which however we need not go into.

41. *The position in the United Provinces.*—We shall now turn to the history of the subject in this province, and examine the progress of events since the passing of Act XX of 1863. It is true there has been



nothing in this province, like the series of persistent attempts to improve that Act, made in the Madras Presidency, to which reference has been made in the preceding paragraph. But, all the same, the necessity for a change in the law has not, on that account, been any the less apparent here.

(1) *Collector Meerut, 1866.*—As early as 1866, the Collector of Meerut, in a communication to the Registrar of the High Court, Agra, observed that “Act XX of 1863 is generally looked upon by the thinking natives as a blow at their religious institutions . . . . The funds, and endowments originally intended for the support and maintenance of the temples and mosques and attending priesthood have, in course of time, become entirely devoted to the latter of these purposes. Each priest in his turn, has collected around him, a following of “chelas” or disciples, until the swollen ranks of the lazy fraternity have, for their support, swallowed up the funds of the endowment, which had been found ample for all legitimate purposes originally intended (6).”

(2) *Board of Revenue, 1867.*—In the following year (1867), the Board of Revenue, in their letter to Government (7) on the subject of amending Act XX of 1867 so as to empower committees appointed under the Act to make alienations of trust property, in case of necessity, made the following observation, which tends to reflect on the popularity of the committees under the Act. They stated that “both Muhammadans and Hindus evince so little faith in the integrity of purpose of the committees on whom the trust devolves, as to look upon the rapid extinction of all religious endowments as the inevitable result of legalizing their alienation on any grounds.”

(3) *Enquiry of 1871.*—Three years later in 1871, when as a result of the aforesaid complaints, made by the Government of Bengal, regarding the frequent and gross mismanagement of Hindu religious endowments, institutions and funds in Orissa, the Government of India suggested, to the various Local Governments, the consideration of the amendment of the law regulating the administration of such endowments in all the provinces, the question was taken up by the Local Government of this province in a formal manner; and a reference to the numerous opinions received by it from the several important officers who were consulted at the time, would amply prove that, even at that early period, there was a strong consensus of opinion pointing to the deplorable mismanagement of such endowments, and to the total inadequacy of Act XX of 1863 to restrain the evil. A few salient examples will suffice to illustrate our point.

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(6) No. 267 of 1866, dated May 22.

(7) No. 20, dated January 10, 1867.



(a) *Commissioner, Jhansi*.—Thus, the officiating Commissioner of Jhansi division stated: “When the present enactment was passed, I recollect native gentlemen remarking to me that the funds would, in most instances, be embezzled by the trustees or managers, and that the committees would prove no real safeguard as the members would either display utter indifference to the interests of the trust, or combine with the manager to benefit pecuniarily their position. These forebodings have, I fear, turned out too true <sup>(9)</sup>”.

(b) *Senior Assistant Commissioner, Garhwal*.—The officiating Senior Assistant Commissioner, Garhwal, touching on the affairs of his district observed: “For the last three years, reports and petitions against the manner in which the interior economy of the temple of Badrinath is being carried on, have been very numerous; and from personal investigation, I can state positively, that there is not the least doubt that the present Rawal grossly mismanages the trust made to him . . . The funds given for purely religious purposes are squandered, and diverted to charges quite foreign to what they were intended for . . . It cannot be expected that the Government should take all the responsibility; but it must be remembered that, prior to our rule, the native government did take cognizance of these matters. We supplanted it but have withdrawn from one of its duties; and there is no one amongst the people themselves, who is fit to take this duty of supervising these endowments <sup>(10)</sup>.”

(c) *Settlement Officer, Kumaun*.—The Settlement Officer of Kumaun stated: “It is a notorious fact that, both in Kumaun and in Garhwal, extensive embezzlements of the property of temples have and are being practised by the temple authorities.”

(d) *Commissioner, Kumaun*.—But perhaps the strongest condemnation of the state of affairs in Kumaun division, is contained in the letter of the Commissioner of that division <sup>(11)</sup> from which the following observations have been extracted:—“Some years ago, when Government was separated from all connection with temple interests, monthly payments were commuted to one lump sum, which was made over to the persons in charge of the temples; and I believe that, at the present time, all such payments, with one exception, have been squandered away, and that only escaped from the leading Hindus at Almora arranging that the money should be invested in Government paper. This is strong evidence of the dishonesty and incapacity of these temple authorities, who cannot be trusted with money. Their utter contempt

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<sup>(9)</sup> No. 124, dated February 18, 1871.

<sup>(10)</sup> No. 4, dated February 25, 1871.

<sup>(11)</sup> No. 379, dated May 15, 1871.



for the temples they are employed in and the Gods they are supposed to worship and serve, makes them bold enough to misappropriate every rupee they can get; while their shameless disregard of their trust and abuse of power over money, is the talk of all respectable Hindus, who are desirous of seeing this evil remedied."

*Conduct of priests and attendants.*—Speaking specifically with regard to Budree Nath and Jageshwar temples, undoubtedly two of the most important institutions in that division, the Commissioner wrote as follows:—"Budreenath offerings sometimes exceed Rs. 50,000, and have gone, it is said, as high as a lakh; but the temple is in debt, because its profligate priests and other attendants squander the money on women and in enriching themselves. In Kumaun, the Mahant of Jageshwar who has the superintendence of some villages, and the offerings of several temples, multiplies wives and, except where money is to be made, the temples are neglected <sup>(12)</sup>."

(e) *Commissioner, Allahabad division.*—The Commissioner of the Allahabad division wrote: "The Collector of Cawnpore reports that the general opinion, held by the natives whom he consulted is, that the funds of nearly all the religious endowments are misappropriated and squandered by the trustees or managers <sup>(13)</sup>."

(f) *Commissioner, Benares division.*—We specially commend the following observation of the Commissioner, Benares division:—"From my own personal enquiries and experience both here in Benares division and in Meerut, I can safely endorse this opinion, which is general, that Act XX has failed in all its objects, except in so far as it relieves Government officers from power of interference for good, and from the very first, was not looked upon favourably by either the Hindus or the Muhammadans."

(g) *The Local Government.*—In forwarding an abstract of the above replies to the Government of India in 1871, the Local Government made the following comment:—"In the opinion of the Lieutenant-Governor, the provisions of Act XX of 1863 are too stringent in confining action under it, to the class of endowments in section 3, namely, those of which the nomination or confirmation of the appointment of the Superintendents, vested in the Government. Moreover, the power given by the Act was confined to action once for all, on its passing. His Honour thinks that the Government should have a continuing power of taking up any endowments at any time and placing them under committees of their co-religionists, and that the power should be general and not confined to the class specified in section 3 of the Act."

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<sup>(12)</sup> No. 379, dated May 15, 1871.

<sup>(13)</sup> No. 238, dated April 28, 1871.



These extracts will suffice to show that even at that early period, the Government of these provinces had realized the fact that Act XX of 1863 was defective in several important particulars.

42. *Attempts in the Central Legislature.*—We have so far dealt with the attempts to secure modification of Act XX of 1863, made in the provinces. We shall now narrate briefly the similar attempts made in the Council of the Governor-General.

(1) *Provision in the Civil Procedure Code.*—No definite measure was taken up at all for consideration till 1877, when the Code of Civil Procedure, Act X of 1877, was enacted, section 539 of which contained a provision for the first time, to enable any two or more persons, having a direct interest in an express or constructive trust, created for public charitable purposes, to sue with the permission in writing of the Advocate-General, for the removal of trustees, if an alleged breach of trust had taken place, or for accounts, or other directions connected with the administration of the trust. This provision was reproduced, with some alterations, in Act XIV of 1882, which made it clear that it applied to both religious and charitable trusts of a public nature alike, and corresponds to section 92 of Act V of 1898 now in force.

*Its drawbacks.*—In one sense this provision was an improvement on section 14 of Act XX of 1863, as it provided for the appointment of new trustees, which was not possible under that Act. It also covered public trusts both for religious and charitable purposes and permitted the Advocate-General himself to sue for the same relief, in similar circumstances; but, except in rare instances, the Advocate-General has not chosen to exercise that power himself, and has left the burden of filing suits against the defaulting trustees, to private individuals. The remedy provided is, moreover, curative rather than preventive; and the trouble, inconvenience and expense, added to the difficulty of collecting and producing evidence to prove any definite charges of breach of trust, without any previous opportunity to inspect or examine the accounts, have discouraged the people from using the provisions, except perhaps in the most flagrant cases. The other defects of the Act have been dealt with elsewhere.

(2) *Mr. Ananda Charlu's Bills of 1897 and 1904.*—In 1897, the Hon'ble Mr. Ananda Charlu submitted a Bill for the better management of Hindu religious endowments, but had no success. He repeated his efforts in 1904 but with no better results.

(3) *Mr. Srinivasa Rao's Bill, 1903.*—A similar Bill of Mr. Srinivasa Rao met the same fate in 1903.



(4) *Dr. Rash Behari Ghose's Bill, 1908.*—In 1908, the Hon'ble Dr. Rash Behari Ghose submitted a Bill to the Government of India, to give greater facilities to the public for calling and inspecting the accounts of public charities. In the course of the statement of objects and reasons to the Bill, the Member in charge said: "The object of the Bill is to provide a simple procedure, which would enable the public to obtain inspection of the accounts of public charities. There is reason for suspecting that considerable portions of the revenues of these charities are mis-spent or squandered on useless objects. A regular inspection of accounts by the public would be an effective check upon such mal-practices, where they exist; and it is highly desirable, in the interests of these charities, to allow the public every reasonable facility for such inspections. The Bill does not impose any new duty on trustees of public charities. The law, as it stands, gives sufficient powers to the courts to direct accounts when once a suit has been instituted. The duty of keeping proper accounts, however, is not always observed by such trustees; and experience has shown that this duty is likely to be neglected, unless the members of the public, who are interested in the charity concerned, are allowed the means of calling for and inspecting accounts, without undertaking the burden of a suit."

Pandit Madan Mohan Malviya, then a member of the Local Legislative Council, also gave to the Bill his hearty support. He said, "I have carefully considered the provisions of the Bill. There has been a growing feeling for some time past in the country, that serious abuses exist in the management of a number of endowments. The Bill, the object of which is to secure that the income of an endowment shall be devoted faithfully to the purposes for which the donor intended it, will, I therefore expect, be received with general approval, not only by the educated classes but by all thoughtful men among the people. The only persons who are likely to regard it with disfavour are trustees or managers of public charities, who have been mismanaging the endowments placed under their control. The great body of worshippers or the people, who are the real beneficiaries in the case of religious and charitable trusts, are not likely to show much sympathy with those who have abused their trusts and misappropriated or misapplied their income. The Bill, if passed into law, will enable persons interested in a public religious or charitable trust to obtain from the trustee, a detailed account of the receipts and disbursements in connection with the trust property, and will thus to a certain extent facilitate the proper administration of such trusts. The mal-administration of trust funds, in most cases, is allowed to go on on account of the apathy of the people; and it is only when their dormant interest is aroused by some very flagrant



instance of misappropriation, or when the trustee makes himself very unpopular, that some action is taken to rectify the abuse. An application under this Act will, in most cases, constitute the preliminary skirmish in such a fight. I expect very few applications will be made under this Act merely for the purpose of inspecting the accounts." The late Hon'ble Sir (then Pandit) Sunder Lal also expressed a similar view.

Many public men of position and standing including Mr. S. P. Sinha, (then the Advocate-General of Bengal, and afterwards Lord Sinha, the Governor of Bihar and Orissa), the Hon'ble Mr. V. Krishna-swami Iyer (afterwards a Judge of the High Court of Judicature and Member of the Governor's Executive Council, Madras), and Dewan Bahadur R. Raghunath Rao (known in those days as the Grand Old Man of Southern India), who were consulted, supported the measure and regarded it as extremely salutary and useful. And most of the non-official Hindus and Muhammadans and officials of these provinces strongly supported it. With regard to this Bill, the British Indian Association, Lucknow, said :—"The Association are still of opinion that the enactment of 1863 requires a complete emendation in order to make its provisions more workable and capable of affording efficacious remedy to the abuses so common in this country, in the management of religious and charitable institutions. But it is evident that the Government is not at present prepared to undertake any legislation of a comprehensive nature on the subject. The Association welcome the help which the public will get by the Bill now introduced in His Excellency the Viceroy's Legislative Council."

The Bill was circulated to the Local Governments and other heads of departments; and, although the opinions recorded were largely in favour of legislation towards greater control over the management of public endowments of a religious and charitable nature, yet the Government of India was not willing to undertake legislation, which might in any way be interpreted as interfering with the religious observances of the people.

(5) *Sir William Vincent's Bill (1919) which became Act XIV of 1920.*—No further steps were again taken till 1919, when the Hon'ble Sir William Vincent (Member of the Governor-General's Council) moved for leave to introduce a Bill to provide more effective control over the administration of charities and religious trusts, by providing for the obtaining of information and the audit of accounts of such trusts through the agency of the civil court. In the statement of Objects and Reasons appended to the Bill, it was mentioned :—"The Religious Endowments Act (XX of 1863) was the result of the decision of the Government to divest its officers of all direct superintendence and control of religious and charitable endowments in India, transferring their functions



to managers or managing committees, and merely making provision for intervention by the civil courts on application made by any person interested in a particular institution. This policy did not, however, long remain unchallenged; and since 1866 there have been constant complaints especially in the Madras Presidency, as to the inefficiency of the Act to prevent the squandering or misappropriation of the funds of such endowments; and suggestions for its amendment have, from time to time, been made to the Government of India. Mr. Anand Charlu in 1897, Mr. Srinivas Rao in 1903 and Dr. (now Sir) Rash Behari Ghose in 1908, for example, promoted amending Bills, but none of them became law. More recently, in 1911 a private Bill was introduced in the Bombay Legislative Council by the Hon'ble Sir Ibrahim Rahimatoola, to provide for the registration of all charitable trusts, exceeding a certain value, and for the annual audit of the accounts of such trusts by auditors approved by Government. About the same time a private Bill was promoted by two non-official members of the Madras Legislative Council to provide for the regular publication of the accounts of all religious endowments above a certain value, and for their audit by an officer to be appointed by the District Judge. These proposals led the Government of India to reconsider the policy in force since 1863. In March, 1914, the whole subject was discussed at a mixed conference of official and non-official gentlemen representing the Hindu, Muhammadan, Sikh and Buddhist communities. The present Bill, which is the outcome of the deliberations of that conference, has, as its object, the simplification and cheapening of the legal processes by which persons can obtain information regarding the working of both religious and charitable trusts, and the exercise of a more efficient control over the action of trustees."

In moving the Bill, the honourable mover, after referring to the various attempts made, from time to time, to induce the Government to examine the question, observed: "The Bill, being an Imperial Bill, is limited in scope, because different provinces have advanced to different degrees in this matter. Some provinces probably are ripe for further measures of control. We have had before us proposals for the registration of trusts, for the publication of accounts and the obligatory audit thereof; also for limiting the period of office of those in charge of these endowments, and for the creation of new schemes of management and so on. The Government of India, once this Bill is passed, are prepared to allow Provincial Governments and Legislative Councils to proceed, as far as they think fit, on these lines, subject to certain definite limitations, and if orthodox opinion is adequately consulted. I can't say that they would approve of any direct interference by Government in this management; but, subject to that I think that we are prepared, according



to the last instructions that have been received from the Secretary of State and the last discussions in this country, to approve provincial measures, which confer much greater power of control over these endowments."

One of the disputed matters in connection with this Bill was, whether if the existence of the trust was denied, the District Court should or should not be empowered to enquire into the matter. The Bill had provided that the District Court would have no power to try or determine any question of title between the petitioner and any person claiming a title adversely to the trust, or any question as to the existence or extent of the trust. The Select Committee was, however, of opinion, that if the court was completely deprived of any power to pass orders on a petition in a case where the trust alleged by the petitioner was disputed, the Bill would largely fail in achieving its principal object. The clause was therefore amended so as to allow the court to decide such a question, if the trustee or other person raising it refused or neglected to get the matter determined, by a regular suit within a certain time. The Bill as amended, was passed and became Act XIV of 1920.

*Defects of the Act.*—This legislation was undertaken by the Government more than 50 years after the demand for a more effective measure than Act XX of 1863, was first pressed in the country. We do not know which to blame more, the public opinion or the Government. But the Act was not free from defects, which we need not now go into.

(6) *Lala Sukhbir Sinha's Bill 1923.*—The defects of the Act were realized, only after a short experience of its working; and so, in 1923, the late Hon'ble Lala Sukhbir Sinha brought forward a more comprehensive Bill on the subject, for introduction in the Council of State. In the statement of Objects and Reasons, he said: "In 1919 the Charitable and Religious Trusts Act was passed in the Imperial Legislative Council but it also has not had the desired effect. In the same year, I moved a Resolution in the United Provinces Legislative Council that was carried; and a committee under Rule 13 of the Old Council Rules was appointed, to draft a Bill on the subject. That committee held several meetings, but could not come to any conclusion, before the Reform scheme came into operation; and the committee took no further action. As the matter is of great public importance, I have ventured to draft this Bill as a tentative measure, and hope that those who take an interest in this matter, will take it into their consideration and let me know of their suggestions, so that it may be introduced in the Council of State, after getting previous sanction of His Excellency the Governor-General."



The cruel hand of death snatched away Lala Sukhbir Sinha, soon after his Bill was circulated to the Local Governments for their opinion; and the matter could not proceed further.

(7) *Dr. Gour's Bill, 1924.*—One year later (in 1924), Dr. (now Sir) Hari Singh Gour moved in the Legislative Assembly for leave to introduce a Bill, "to make provision for the better management of Hindu religious and charitable trust property, and for ensuring the keeping and publication of proper accounts in respect of such properties," following closely the lines of the Mussalman Waqf Act of 1923. The Government and some non-officials opposed it on the ground that religious and charitable endowments was a transferred subject and that the subject was, therefore, really one for the provincial legislatures to deal with. However, the Bill was in the end circulated for the opinion of the Local Governments. The Bombay Government opposing the Bill observed that, since the Hindu community was not as homogeneous as the Muhammadan community, and as Hindu religious and charitable trusts were of a much more varied character than Mussalman Waqfs, it would be difficult to frame a single enactment, which should be entirely suitable to the circumstances of these trusts as they existed in the different provinces. The Government of India were further informed that religious and charitable endowments was a transferred subject, that one Legislative Council i.e., of Madras, had passed legislation on the subject, and that the Government of Bombay were therefore of opinion that they should undertake local legislation on the subject. The Bill, after circulation, was referred on January 30, 1925 to a Select Committee, which recommended that the Bill be not further proceeded with. Thereupon, on February 19, 1926, Sir Hari Singh Gour moved in the Legislative Assembly for the recommitment of the Bill to a Select Committee but the motion was negatived, and was eventually dropped.

43. *Historical recapitulation.*—We think we have succeeded in showing that after the withdrawal of Government control over Hindu religious endowments, which was completed by 1843, mismanagement, misappropriation and waste in these endowments became the rule, rather than the exception. As pointed out elsewhere, the control of the ancient ecclesiastical hierarchy had already as a result of Anglo-Indian laws become ineffective, and in course of time sheer inanition reduced the hierarchy itself, to a state of suspended animation. With the withdrawal of State control which had supplemented ecclesiastical control the trustees or managers of these endowments were left to do as they liked, without check or supervision of any kind. From 1843 to 1863 there was also this anomaly, that while Regulation XIX of 1810 of the Bengal Code, and Regulation VII of 1817 of the Madras Code, were still on the statute



book, and the legal liability imposed by them on the Government remained the same as before, yet the Government had actually left these endowments practically without any protection. Act XX of 1863 was intended to remove the anomaly by legalizing the policy of the Government with regard to these endowments, and to provide a non-official agency, in each district, to carry out the functions formerly discharged by the Boards of Revenue and their Local Agents. We have shown that only a short working of Act XX of 1863 was sufficient to convince every one in the country of its utter uselessness. The Act totally failed to check the abuses that existed in the management of these endowments. Numerous attempts were made, both in the provinces and at all centre, for devising suitable legislation for redressing these evils, only to be defeated by an obdurate Government labouring under, what seems to us, a serious misconception of its position from the standpoint of religious neutrality. The Government, apparently hard-pressed, agreed in 1919 to introduce a Bill to provide for more effective control over the administration of charitable and religious trusts in India, which became Act XIV of 1920. This Act, however, was a half-hearted measure and, in the light of progressive ideas, about as popular as the Act XX of 1863 which it was intended to supplement.

44. *Effect of the Reforms.*—It is noteworthy, however, that the introduction of the Reforms in 1919 ushered a new era in the history of these endowments in the country. It is perhaps no exaggeration to say that far more headway has been made in this matter, during the few years that have passed since the Reforms were effected, than during more than 50 years preceding them. The reason is not far to seek. The subject of religious and charitable endowments has been made a transferred subject, and placed under the charge of a popularly elected Minister, who naturally feels more at home with the question, than a foreign Government with imperfect knowledge of the real sentiments of the people in the matter could possibly be. The Minister has also better opportunities for judging the measure of reform that will be acceptable to the house with which he has to deal, and, through it, to the general Hindu public outside. The Reforms have thus opened the way for provincial legislation, calculated to bring about some kind of effective control over the Hindu public religious and charitable endowments. We are not concerned with the details of these attempts in the other provinces, except for the purpose of understanding the dissatisfaction existing throughout India and for helpful guidance as to the direction to be taken by ourselves.

45. *Madras Hindu Religious Endowments Act, 1927.*—The first province to take advantage in this matter, of the changed form of



Government was Madras. A Bill was introduced in that Council in 1922 by the Chief Minister, to repeal Act XX of 1863 as far as it was applicable to that presidency, and codify the law in accordance with public opinion. The Bill was carried through the Legislative Council in 1923, in spite of strong criticism of its provisions from different quarters there. But before it became an Act, it had to be returned to the Council by His Excellency the Governor for reconsideration of certain provisions therein. In 1925 the Bill was reconsidered, by the succeeding Council, and after certain modifications as desired, was passed into law. There was a little controversy connected with the validity of the Act on certain technical grounds. This was, however, completely set at rest at last by the whole enactment being formally gone into again, clause by clause, and revalidated in 1927. Thus, in the Madras Presidency, after fifty years of constant agitation the Madras Act, II of 1927, was ultimately passed and is now in effective operation. The fears entertained at the time of the legislation are said to be gradually disappearing; and, in spite of the defects still to be found in the Act, the Board constituted under it reports that the attitude of the general public, which was at one time hostile, is now one of positive cooperation and support.

46. *The Punjab*.—Almost soon after the Madras Legislative Council had passed its new legislation on the subject, the matter was broached in the Punjab Legislative Council. Professor Gulshan Rai prepared a Bill for the better control of Hindu religious endowments, which could not be proceeded with. Meanwhile serious differences had arisen between the Udasis and the Akalis, and the Government, passed the Sikh Gurdwara Act in 1925, providing for the better administration of certain Sikh Gurdwaras, and for enquiries into matters and the settlement of disputes connected therewith. Into the details of this Act, we need not now go.

47. *Other provinces*.—Besides the two provinces mentioned above, there are instances to show that the matter has been engaging public attention in some other provinces also; and there is little doubt that, as it becomes ripe for legislation, each province will have a separate and comprehensive Act of its own.

(1) *Debi Prasad Khaitan's Bill (Bengal)*, 1924.—Thus, in Bengal, in 1924 Babu Debi Prasad Khaitan, M.L.C., moved a Bill, called the Bengal Hindu Public Trusts Bill, to make provision for the proper control and management of Hindu religious and charitable trusts of a public nature. The Government took up its usual attitude of "strict neutrality" in regard to the Bill, which was introduced at a meeting of the Bengal Legislative Council without a division. But, like many



other private Bills, it could not proceed beyond the initial stage; and besides, the mover himself did not proceed with his Bill presumably because there was considerable opposition to its principles from the public.

(2) *P. Godavaris Misra's Bill (Bihar and Orissa)*, 1928.—In another province, i.e., Bihar and Orissa, P. Godavaris Misra, M.L.C., introduced into the Local Legislative Council in 1928, a Bill for the same purpose, called the Bihar and Orissa Hindu Religious and Charitable Endowments Bill. So far as we are aware, the Bill was under circulation when it was withdrawn by the mover, as he considered it desirable to gauge public opinion in the matter before proceeding with it. Anyhow, this attempt in Bihar and Orissa proved equally abortive. A committee like ours was subsequently constituted there and began to work but has remained dormant for over a year.

(3) *Muslim Wakf Committee in Bihar and Orissa*, 1928.—In compliance with a resolution adopted in the Legislative Council on August 31, 1927, the Bihar and Orissa Government appointed a committee of twenty-two Muslim gentlemen, "to consider the present condition of Muslim religious and charitable waqfs in the province, and the steps to be taken to provide for their efficient governance, administration and supervision and to make recommendations" (14). The unusually laconic report of the committee, dated October 16, 1928, shows that "the waqf properties were in a mismanaged condition," the trustees "were mostly treating them as their personal and private properties", and that Act XLII of 1923 was not a success, "so much so that out of a total of 300 comparatively large waqf properties reported from official sources, the accounts of only 92 were submitted" to the court. The committee recommend the creation of an elected Central Board for control and supervision. So far as we know, no step has yet been taken on the report.

48. *Agitation in the United Provinces*.—In the United Provinces, various public bodies and individuals had, from time to time, approached the Government to adopt measures to secure the better management of religious and charitable endowments.

(1) *The British Indian Association*.—In 1894 the British Indian (Talukdar's) Association, Lucknow, invited the attention of the Government to the urgent necessity for the modification of the provisions of the existing law with a view to bring Hindu and Muhammadan religious and charitable endowments under efficient control.

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(14) Government Resolution No. 3284, dated December 20, 1927, published in the *Bihar and Orissa Gazette* on January 4, 1928.



In 1908 the Association wrote again that they had for a long time felt the necessity for fresh and more effective legislation relating to the management and control of religious and charitable endowments of a public nature, as the provisions of the existing law had been found ineffective and useless in many cases, and fraught with such difficulties that they were seldom resorted to.

(2) *Dan Dharma Pracharini Sabha*.—In 1908, the Hon'ble Rai Nihal Chand Bahadur started an Association called the Dan Dharma Pracharini Sabha, Muzaffarnagar, to collect information about public charities and other endowed institutions and funds existing in the United Provinces and the Punjab, to help the donors in the superintendence or management of the endowments and institutions founded by them and to suggest measures to improve their management. The Sabha collected information about 212 endowments and institutions and published the *Dharmalaya Dipika*—a book giving their detailed account and history. The value of these endowments was estimated, at the time, at over 185 lakhs, and their income at over twelve lakhs and a half per annum.

(3) *Resolution recommending legislation in these provinces*.—In 1917, the late Hon'ble Lala Sukhbir Sinha, moved a resolution in the Local Legislative Council, recommending to the Government, to devise measures for the protection and supervision of religious and charitable endowments and he suggested that the procedure for removing dishonest managers should be simplified, the rendition and audit of accounts should be provided to enable persons, desiring to improve the management of such endowments, to gather information and materials for the purpose, before taking any action. The Resolution was supported by the Hon'ble Rai Tara Dutt Gairola Bahadur, who referred to his intimate experience about the management of two very big temples, which he said, would have gone into ruins long ago, but for the indirect interference of the district authorities.

The Hon'ble Mr. Burn accepted the resolution on behalf of the Government, and stated that when the pre-occupations of the war passed away legislation would be undertaken at once, and that it would be advantageous to have the necessary materials collected meanwhile ready for the purpose. A Committee was then appointed to go into the matter; but before it could submit a report, the Reform Scheme came into operation and the committee ceased to exist.

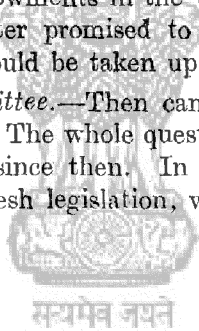
(4) *United Provinces Dharma Rakshana Sabha*.—In 1917, the United Provinces Dharma Rakshana Sabha, Lucknow, was established, with the object of devising measures for checking the mismanagement of



temples and endowments and the protection and preservation of their properties. The Sabha has been actively responsible for the introduction of various legislative measures in the Imperial and Provincial Legislatures in this direction, and has also made the utmost possible use of all the existing legislative enactments for the purpose of purifying the administration of many temples and *maths*, and has collected valuable information regarding the constitution and history of many of these *maths* and endowments, institutions and funds, calculated to help in the purification, and of many more.

In consequence of, and as a natural sequel to, a series of such efforts made, from time to time, by the United Provinces Dharma Rakshana Sabha since 1917, a deputation was led by its president Dharma Rakshana Kesri, the Hon'ble Raja Sir Rampal Singh to the Hon'ble Pandit Jagat Narayan, the then Minister in charge of Endowments, for the introduction of suitable legislation for bringing the Hindu public religious and charitable endowments in the United Provinces under proper control; and the Minister promised to do so, but ceased to be a Minister before this work could be taken up by him.

(5) *The present Committee.*—Then came the genesis of our committee, as described above. The whole question has been under detailed and elaborate examination since then. In the next chapter, we shall discuss the necessity for fresh legislation, with special reference to the United Provinces.





## CHAPTER IV

INADEQUACY OF CONTROL AND CONSEQUENT NECESSITY  
FOR FRESH LEGISLATION IN THE UNITED PROVINCES.

49. *Demand for a more effective remedy.*—It is admitted by the witnesses that there are a few *maths*, *akharas* and other endowments, institutions and funds in these provinces, the management of which is on the whole satisfactory. They keep regular accounts and have raised their income by good management and added to their property. But the fact that such mismanagement exists in other cases, or is possible, renders the search for a remedy, preventive or otherwise, essential.

50. *Duty of the Reformed Legislature.*—The constitution of the reformed legislature renders it easier now to seek and apply a remedy. The subject is now in the charge of a Minister responsible to the Legislature, and any well conceived measure taken to protect such endowments, institutions and funds from wastage and wrongful alienation, and to ensure the application of the funds to the purposes for which they were created, is sure to meet with public support and approval. The sole object in view is to purify the administration of these institutions. The opposition of vested interests is natural; but the larger considerations of public good must prevail and determine the remedy needed for eradicating the disease.

51. *Predisposing causes.*—Before we proceed to discuss the remedies necessitated by the present position of Hindu religious and charitable endowments in these provinces, we think it desirable to examine the causes which have led, and are still leading, to their mismanagement and consequent deplorable state of affairs.

The evidence given before us establishes that a large number of them is deplorably mismanaged. Their incomes are squandered or misapplied for the personal gratification of the *mahants* or trustees in charge of them, and for the unconscionably lavish entertainments of high officials and other guests. In a majority of cases no accounts are kept or rendered to any body. In olden days, temples and *maths* were used largely for religious instruction, and for the recitation of *kathas* from sacred books to eager listeners for their moral and spiritual gratification. There are still to be found some learned *mahants*, *sadhus* and priests, in charge of religious institutions, who are held in high esteem and reverence for the purity of their lives and the religious introspection



they inspire by their teachings. But in many cases it is not so, and little attention is paid to maintain the temples or religious places in proper repair, to improve the sanitation and health of the locality, or to promote the convenience and comfort of the pilgrims coming for worship.

52. *Causes of mismanagement.*—The reasons are not far to seek. Unfortunately the *mahants* and *pujaris* are now mostly ill-equipped by education and upbringing for the satisfactory performance of their duties. Few have studied the vast religious and devotional literature available; and not many are competent to impart religious teaching to the persons coming there for instruction or worship. Their principal aim often is to make disciples, whom they are unable to bring up in higher religious pursuits, or to obtain offerings, by such methods as may be available, for their gratification and use. It has been found that at a number of places images have been set up at every possible nook and corner in close proximity to the main temple itself, with a sole view to afford increased opportunities for exacting offerings from the pilgrims, whose faith is exploited by setting up imaginary places, associated with the events in the life of holy personages held in high reverence by the Hindu community.

In some cases, where the right to the priestly office, or the turn of worship, has been alienated to persons belonging to other religious persuasions; the alienees have no real interest in the preservation of the institution.

Hereditary succession may, in some cases, be another cause; for, as pointed out by WALLIS, C. J., hereditary succession to an office of trustee recognized by the old Regulations, and section 3 of Act XX of 1863, affords no guarantee of the fitness of the claimant for the exercise of that office <sup>(1)</sup>. It has, however, now been settled by the Privy Council, in a case arising under the Muhammadan Law, that the court has always a judicial discretion to vary any rule of management laid down by the founder, which it may find either not practicable or not in the best interest of the institution concerned; and the same principle would probably be applicable to Hindu institutions <sup>(2)</sup>.

Prolonged litigation has not unoften led to the ruin of these institutions. The successful party makes the endowment pay for what he has spent, and if the unsuccessful party happens to be in possession, he not only meets the costs of the litigation out of the endowed properties, but removes as much of them as he possibly can before he is actually ejected. Some cheaper or simpler method is therefore badly needed.

<sup>(1)</sup> *Boidyo Gourang Sahu v. Sudevi Mata*, I. L. R. 40, Madras 612 p. 617.

<sup>(2)</sup> *Muhammad Ismael v. Ahmad Mula*, L. R. 43. Indian Appeals p. 127.

See *Dharam Dass v. Sadho Prakash*, 40 I. C. 177, pp. 178—180.



by which these disputes can be settled and the fittest ~~man~~ selected for the management of the trust.

But the principal cause, which has contributed most to the mismanagement is, on the one hand, the weakening of the effective traditional control and supervision over the management by the Sampradaya concerned or by the public, and on the other, the withdrawal of control by the Government without the substitution of any other authority. The trustees have acquired a position in which, they believe, they can carry on the management in any way they like. Remedies so far provided by law, as we proceed to show, have always proved ineffective and inadequate.

53. *Supervision under Act XX of 1863 ineffective.*—The Committees appointed under Act XX of 1863, even in those rare cases in which they were appointed, were unable to exercise any effective supervision as they had no power or prestige behind them. The members of the Committee were appointed for life. Their functions were not defined with sufficient clearness and precision. They were not enabled to command funds for maintaining an office establishment and conducting a periodical audit of accounts; and they had no power to enforce obedience to their orders, except by the tedious and expensive process of a regular suit, for which they were provided with no regular funds. Persons interested in the trust had power to sue for the removal of the trustee, manager or superintendent, but there was no power given to the court hearing the suit, to appoint another in his place <sup>(3)</sup>. The ordinary worshipper had no means of inspecting the accounts kept by the manager, trustee or superintendent, and, whatever might be the nature of the suspicions entertained by him, it was difficult for him to verify his suspicions and find evidence sufficiently strong and definite to enable him to risk the expense of a suit against the person in possession. In fact, the only persons who possessed sufficient knowledge of the details of management and the course of business connected with the temples, to give them a chance of success in the civil court, were the persons charged with the management; but they could not be expected to expose the mismanagement or allow information to go which might be used to their own prejudice. The result was that the remedy provided proved ineffective; and the action of the trustees practically remained uncontrolled.

54. *Remedy under section 92 Civil Procedure Code inadequate.*—Section 92 of the Code of Civil Procedure, 1908, like the corresponding provision in the previous codes, which it replaced, is equally inadequate

(\*) *Sada Shankar v. Hari Shankar*, 5 A. L. J., P. 191.



to enforce proper management. There is no obligation on trustees to register the trusts, or to publish their accounts annually, or to subject them to an annual audit. Any information about mismanagement can filter through only slowly; and local interest is not always sufficiently active to induce persons to take up the cudgels on behalf of the trust, and undertake the risk, expense and worry of a suit without any definite materials in their possession. The possibility that if the suit be unsuccessful, the persons who initiate the proceedings will have to pay the costs of the successful party, has also acted as a deterrent. Moreover, the proceedings under section 92, Civil Procedure Code, operate as a hardship and handicap on intending plaintiffs, owing to such glaring causes as the excessive delay (normally of six months and in some cases of much more) in receiving the necessary sanction from the Legal Remembrancer, the disclosure to the delinquent trustee, in the preliminary enquiry, of the plaintiff's entire evidence long before it is produced in the court, and the non-taxation of the costs of the enquiry (not unoften amounting to the same figure as the costs of the suit itself). It is, therefore, only in the most flagrant cases, that steps are taken to remove the trustees, and the large majority of cases, where mismanagement goes on, remains unchecked.

55. *Act XIV of 1920 of little avail.*—Act XIV of 1920 has not in any way improved the position; for, though by section 13 of Act XX of 1863, every trustee, manager or superintendent is required to keep regular accounts of his receipts and disbursements, the absence of any provision requiring them to publish the same or allow previous inspection, discourages persons from taking proceedings at personal risk, on mere suspicion. When the Act of 1920 was passed it was claimed that persons interested could by a simple and cheap legal process, obtain information regarding the working of the such institutions and thus exercise a more efficient control, but this hope has not been realized. The facility with which a trustee can deny the existence and nature of the trust enables him to protract the course of litigation and to keep back the account books, if he has kept any, till the existence, extent and the nature of the trust are finally determined by a regular suit. The trustees are required to file accounts, but no penalty is imposed for filing false accounts; and if the accounts are not produced or are found to be false, they cannot be removed in the same proceeding.

56. *Suits against transferees.*—Where alienations have been made by a trustee, no relief can be obtained against the transferee, in a suit for the removal of the trustee under section 92 of the Code of Civil Procedure or under Act XX of 1863; and if in a subsequent suit against the transferee he denies the existence or the nature of the trust, the



same question of title has to be gone through over again with the disadvantage of the trustee and the alienee combining together to defeat the person seeking to invalidate the alienation. The challenging of the necessity for the transfer, or of the benefit accruing to the trust therefrom, presents considerable difficulty. Therefore, the absence of any provision requiring previous sanction of a competent authority for a valid alienation of endowed property, as is required in the case of the property of the minors, is a grave defect in the law. The endowed property requires, in fact, even greater protection than the property of minors. The relations of a minor are always ready to protect his interests; but, where public interests are concerned, individual responsibility is seldom undertaken for the protection of property belonging to a large and indefinite body. And, where the office of the trustee is hereditary, the outside public takes still less interest to question the alienation.

57. *Act XXI of 1860 provides even less check.*—The Societies' Registration Act (XXI of 1860) has enabled certain institutions to get themselves registered and become corporate bodies. The members are supposed to act in conformity with the Memorandum of Association, and to carry out the objects for which the society is formed; but there is no obligation on them to keep regular accounts or to get them audited, or to publish an annual balance sheet or even an abstract thereof; and the safeguards provided by the Indian Companies Act in the case of Joint Stock Companies are wholly wanting. The members who register themselves into such Societies are very often persons, who have held the same property for certain specific purposes from before; and, by registration, they only save themselves from the obligation to keep regular accounts, imposed in the case of public endowments by section 13 of Act XX of 1863, and from any personal liability for loss, from which by section 8 of the Act (XXI of 1860) they are protected. The Societies are, moreover, enabled by section 12 of the Act to alter, extend or abridge the objects under certain conditions. The members have also the power to dissolve them, if they like. The object for which the property was originally endowed or given is thus liable to be frustrated.

58. *Control by Municipal and District Boards.*—Section 152 of the United Provinces District Boards Act (X of 1922) and section 119 of the United Provinces Municipalities Act (II of 1916) permit any property, endowment, and fund, belonging to any public institution, being vested in, or placed under, the management, control and administration of a Board, in trust for the purposes to which such property, endowment and fund are lawfully applicable at the time when the institution becomes so vested or is so placed. But the District or Municipal Boards have enough normal work of their own to be able to manage and control



endowments, institutions and funds, which may be entrusted to their management.

59. *Examples of the unsatisfactory condition.*—It is unnecessary to discuss, in detail, the evidence adduced before the Committee, which goes to establish beyond the possibility of doubt that the trustees, in a large number of cases, starve the objects of the trust even where its income is sufficient; that in most instances, no proper accounts are kept or published or budgets regularly framed, that the repairs of the temples or other buildings concerned are often neglected; that high rents are exacted in some places for the occupation of *dharmashalas* intended for free public use; and that alienations of the endowed property or turns of worship are not unoften effected to the prejudice of the institutions concerned. We shall only illustrate the position by a few notable examples :—

(a) *Misconduct and wastage.*

(1) *Temple of Shri Badrinathji.*—The unsatisfactory management of the temple of Shri Badrinathji in Garhwal has attracted attention more than once; and different schemes have been framed, from time to time, for its administration. The *Rawal* in charge has done little to promote the comforts of the pilgrims. The repairs of the temple, the buildings around the main shrine and the *dharmashalas* are neglected. The income is misapplied, and the sanitation of the place is unsatisfactory. The manner in which the pilgrims seeking admission to the temple are treated, reflects little credit on the management. A detailed account of this temple of all-India importance and also of Shri Kedar-nathji's temple will be found in the herewith annexed report of the Garhwal sub-committee (Appendix D).

(2) *Bharat Mandir, Rishikesh.*—The Bharat Mandir, Rishikesh, is one of all-India importance with an income of over Rs. 20,000 per annum, excluding premia on permanent building leases. As the result of repeated complaints against the present *mahant's* administration thereof enquiries were instituted by the Government at the request of the Tehri Durbar in 1915, by the United Provinces Dharma Rakshana Sabha in 1917, by the Bharat Mandir Commission (appointed by the All-India Hindu Sabha) in 1919-20, and by the Vedant Commission (appointed by the All-India Vaishnava Mahamandal) in 1928. As a result of the first enquiry, the *mahant* undertook to "keep and publish full accounts of his administration of temple funds for the future". But, so far as we know, he has not published any accounts. The results of the three later enquiries are embodied in the published reports thereof. The evidence before us has also tended in the same direction, and goes to



show that he has not unoften converted temple property into private property in the names of himself and his sons; that, on the whole, the objects for which the founders established the trust are entirely overlooked; and that the management needs considerable overhauling in such a manner that the objects of the trust may be effectually carried out and the trust may be managed in the best interest of the institution itself. In this connection it is interesting to note that even official evidence before us referred to "apprehended impending *satyagraha* by the people at Bharat Mandir on account of extreme mismanagement."

(3) *Temple of Nageshwar Nathji*.—The temple of Shri Nageshwar Nathji, Ajodhya, is one of the oldest temples existing in that city. The temple enjoyed grants from some Taluqdars of Oudh; but owing to dissatisfaction with the *mahant* they resumed the grants. A suit was filed in 1910 for the removal of the *mahant* in charge of the temple on the ground of misconduct and immorality; it succeeded on the merits, but was dismissed on appeal on a technical ground (4). In 1922 another suit was brought for the removal of the same *mahant*; and it was found that the *mahant* had alienated different portions of the temple property without any necessity; that he had once been declared an insolvent and convicted of gambling; and that his personal character was unworthy of the position of the *mahant* of an important temple. He was removed and a committee was appointed to manage the temple (5).

(4) *Asthal Gomti Das*.—The Asthal of Gomti Das, Lucknow, possessed considerable property, consisting of revenue-free grants made by the Kings of Oudh for the support of Sadhus, the maintenance of a *thakurdwara*, and for the devotional and charitable purposes. The British Government, which came into power after the annexation of Oudh, assessed revenue on the bulk of the property, leaving only a small patti revenue-free. However, although the grant of the former Government had been revoked, the Asthal was sufficiently richly endowed. But the last *mahant*, Baba Lachman Das, who assumed the management in 1904 grossly mismanaged the trust. In a suit instituted under section 92 of the Code of Civil Procedure in 1915 it was found that despite a large income the *mahant* had mortgaged with possession one of the villages appertaining to the trust without any necessity; that the main temple was in a dilapidated and ruinous condition; that the subordinate temples at other places were equally neglected; that nothing had been done to promote the comforts of the visitors coming up to the temple for worship; and that no accounts were maintained which could show that any

(4) *Sarabjit Bharati v. Lagan Dei*, 15 O. C., 202.

(5) *Sarabjit Bharati v. Gaurinath Kakaji*, 27 O. C., 149.



ascetics or Sadhus were fed or supported from the income as required by the grant <sup>(6)</sup>.

(5) *Mahabirji temple*.—The Mahabirji temple, Aliganj, Lucknow, has even more gloomy history. The temple was built by Lala Jatmal in Samwat 1840 in grateful memory of the fulfilment of a blessing given by Mahant Khasa Ram. The temple is visited by a large number of the people of the city and the surrounding villages, and a big fair is held there annually in *Jyeshtha* (May—June) when thousands of people start from their homes prostrating themselves and making obeisances at every step as they proceed to the temple. A suit for the removal of the *mahant* in charge of the temple was filed in 1919 on the ground that he had neglected his duties and was leading an immoral life. The court found that the *mahant* had kept no accounts and had been appropriating the income derived from the temple for his personal use; that the repairs of the temple had been neglected; and that alienation had also been made by the *mahant* without any necessity. The *mahant* was removed and a scheme framed by the court for the administration of the endowment; a committee of five members was appointed, on which a seat was given to the younger brother of the *mahant* as a representative of the family of Mahant Khasa Ram <sup>(7)</sup>. The latter, too, had afterwards to be removed on the application of his own brothers for gross immorality. A third brother was appointed in his place; but ere long he committed a murder and was eventually convicted and hanged. The fourth brother, too, was then tried, but was also found unsatisfactory. The trustees then appointed an outsider to act as the priest of the temple. He was opposed by the preceding *mahants*, who forcibly ejected him. Proceedings were then taken against them under section 145 of the Code of Criminal Procedure, and also in the District Court; and they were eventually ejected. This Committee inspected the temple during the course of its enquiry and found that the income of the temple had increased and great improvements have been made by the new trustees in charge of the temple.

(6) *Shri Rangji temple*.—In Muttra there is a large endowment attached to the Shri Rangji temple in Brindaban. The temple was built at an enormous cost by Seth Laxman Das under the direction of his Guru, Shri Swami Rangacharya, a learned divine who had come from Southern India. The endowment consists of 33 villages in the Muttra and Agra districts and other property, since acquired, yielding an income of about two lakhs per year. In 1868 the Swami dedicated the temple to public worship. As his son was barely educated and is said to have

<sup>(6)</sup> *Lachman Das v. Rajjan Lal*, 20 O. C., 49.

<sup>(7)</sup> *Gauri Nath v. Ram Narain*, 7 O. L. J., 643, 60 Indian Cases, 467.



led a profligate life, he nominated his grandson to the succession after himself, and appointed a committee of management to look after the temple and its property. The Swami died in 1883. His grandson, Swami Rangachari, succeeded to the Gaddi and attained majority in 1899. But there were complaints against him; and a suit was brought against him and the members of the Committee for neglecting and mis-managing the affairs of the temple, with the result that a new scheme was framed for the administration of the temple and its property by the High Court of Allahabad in 1926. That scheme is now in force. When a sub-committee of this Committee visited Muttra it received conflicting reports as to the manner in which the affairs of the temple were still conducted, and whatever the facts may be, it has since transpired that the places of some of the trustees, who had died, had not till recently been filled up, and the effective supervision intended by the scheme is lacking. This can only be attributed to the fact that the court, which frames a scheme for the administration of the temple or trust, withdraws its own connection and control as soon as the scheme is framed and the trustees are appointed, and unless some other persons turn up and move the court for further action, there is no continuing supervision of the work of the trustees, without which the proper administration of the trust can not be ensured.

(7) *Govindji temple, Brindaban*.—The annual income of Govindji temple, Brindaban, is variously estimated from Rs. 12,000 to Rs. 25,000. Judging from evidence of very responsible witnesses before us we feel justified in believing that in this case, too, there has been conversion of temple property into personal property; that the trust is being wasted; and that the objects thereof are not being carried out according to the wishes of the donors.

(8) *Lala Babu and Shyam Sundar temples, Brindaban*.—Lala Babu temple and Shyam Sundar temple at Brindaban are instances of temples whose endowed property is heavily mortgaged to *mahajans*.

(b) *Ruinous litigation.*

(9) *Ban Gaddi of Salempur*.—The Ban Gaddi of Salempur Gosains, Moradabad, has a still more unfortunate history. The last *mahant* died in 1906, leaving a brother who married the two "widows" of the preceding *mahant*. The Gaddi is a very ancient foundation; but since the death of the two brothers the litigation between the two "widows" and the alienations which they have been making are ruining the estate, which consists of 26 villages and 3 mahals in tahsil Hasanpur of the Moradabad district. And what still remains thereof has, for all practical purposes, become the private property of the "widows" in question.



(10) *Baghambari Gaddi*.—In Allahabad there is a large Gaddi known as the Baghambari Gaddi, held in high veneration on account of the spiritual character of its founder, Baba Balgiri Baghambari, who lived more than a hundred and fifty years ago. The Gaddi or shrine of Baghambari which appears to have been endowed with considerable property was originally established in a house below the Fort of Allahabad.

This house was destroyed in the Mutiny, and the Gaddi was removed, in consequence to an adjoining village near Daraganj. The manager of the Gaddi at that time was Bhola Gir, who died in 1868, leaving four disciples, who first fought amongst themselves, but afterwards settled their differences and made an arrangement by which one of them, Nepal Gir, was appointed Gaddi Nashin or the head, and the administrative functions in regard to the management of certain properties were divided between the other three.

One of the persons, to whom the management of certain villages was assigned, omitted for a time to make any remittances to the Gaddi or to render any accounts. In 1884 the *mahant* filed a suit against him for possession and accounts, which was continued on the death of the latter against his legal representative who was brought on the record. But the High Court at Allahabad dismissed the suit against him, leaving it open to the *mahant* to sue the said legal representative again as the person in possession of the estate, when all the questions relating to his title and that of his predecessor could be determined.

The *mahant* brought a fresh suit against him in 1893 for possession and mesne profits which was finally decreed by the Privy Council in 1899<sup>(\*)</sup>. The money borrowed to meet the expenses of that litigation was declared to be chargeable against the Gaddi property<sup>(\*)</sup>. For some time thereafter each succeeding *mahant* got into the Gaddi without any dispute.

The last *mahant*, duly installed and properly appointed, was a man named Gayananand, who in March 1917 appointed as *mahant* a man named Narayana Gir; but Narayana Gir relinquished his office in November, 1917. Gyananand thereupon appointed as his successor another person named Shantanand Gir, who for a period went away from Allahabad to improve his education, increase his religious knowledge and become qualified to deal with the affairs of the *math*, appointing Gyananand to act as his deputy meanwhile. While Shantanand Gir was away Gyananand appointed a man named Basudev Gir; but he seems to have got dissatisfied with Basudev Gir and, in pursuance of a power which he

(\*) *Parsotam Gir v. Narbada Gir*, I. L. R., 21 All., P. C. 505.

(\*) *Parsotam v. Dat Gir*, I. L. R., 25 All., 296.



appears to have reserved for himself in the deed under which he appointed Basudev Gir cancelled his appointment and deposed him for misconduct.

When Shantanand Gir returned a dispute arose between him and Basudev Gir, each claiming the spiritual rights appertaining to the *mahantship*; and it was held by the High Court at Allahabad that when Shantanand Gir relinquished his office, spiritual and temporal, for the time being, he had no intention to retire altogether from the office; that he delegated Gyananand to act for him as his deputy during his absence; and that Gyananand had no right to displace him and appoint another *mahant* in his absence. This decision was affirmed by the Privy Council. But before Shantanand Gir could formally get possession he was ejected, and Gyananand appeared again and filed a suit against Shantanand Gir seeking to remove him from the office of *mahant* on grounds into which it is not necessary here to enter. That suit is still pending; and it is no wonder that the interests of the *math* are suffering meanwhile. The Gaddi has been in litigation for the last forty-six years, and no end is yet in sight. Some remedy is evidently needed in the interests of public endowments by which such prolonged and ruinous litigation could be avoided <sup>(10)</sup>.

(11) *Nanak Shahi Gaddi, Baksar*.—There is a Nanakshahi Gaddi at Baksar in tahsil Hapur of the Meerut district holding a large revenue-free grant in that district from the time of Alamgir II. The *sadhus* are celibates and the Gaddi is presided over by a *mahant* who has the right to nominate his successor. In 1888 there was a dispute about succession to the Gaddi between persons each of whom claimed to have been nominated by the preceding *mahant*; and it was held that the claimant, who was a married man, was not entitled to succeed to the Gaddi <sup>(11)</sup>. In 1910 a suit was filed for the removal of the *mahant* then in charge on the ground of misconduct and immorality; and he was removed and another person, advanced in years, was appointed in his place; but he was found equally unsatisfactory, and while proceedings were going to be taken for his removal he died.

(12) *Surajkund math, Benares*.—The Surajkund math at Benares is a noteworthy instance of the same kind. It was the subject of a prolonged litigation on the death of Narayana Gir, the last *mahant*; and suits were filed by three different claimants, one of whom claimed a right to succeed as the *chela* of Narayana Gir, another claimed a right as a *guru* of Narayana Gir and also under an oral will said to have been made by him on the day of his death, and his subsequent election by the Sanyasi

<sup>(10)</sup> *Ram Parkash Das v. Anand Das*, L. R., 43, I. A., 73, p. 9.

<sup>(11)</sup> *Basdev v. Gharib Das*, I. L. R. 13 All., 256.



brotherhood, and the third claimed the *math* property as the Guru Bhai of Narayana Gir. Narayana Gir died of cholera after a short illness on July 9, 1910. The Court of Wards was in possession of the estate owing to the minority of Narayana Gir, and claimed, in return, a right to the property by escheat.

The Subordinate Judge who decided the case found that none of the three claimants was entitled to succeed to the Gaddi; that the Court of Wards could not claim the property by escheat as the *math* was of the nature of a religious endowment for the propagation of the Hindu religion; and that the neighbouring *mahants* of the Dashanami *maths* should be called upon to elect a successor. Referring to the constitution of such *maths* he observed:—"Shankaracharya founded these *maths* as the religious outposts to fight out the influence of Buddhism and to spread the doctrine and system of religious philosophy he taught. These institutions soon became seats of learning and exercised considerable influence all over the place in the neighbourhood. Charities were also distributed from such institutions. Noblemen and princes often endowed these with large estates and properties to support the *math* people, to spread the scholarship and learning and to distribute the charity far and wide." On appeal the right of the person who claimed to be the *chela* of Narayana Gir was recognized, but not till after the litigation had lasted for about seven years, involving the parties in considerable embarrassment, trouble and expense. Another litigation is now pending, in which the right of the person who was successful in the preceding suit is questioned; and it is alleged, among other things, that he is a married man and had children, and was disqualified to hold the office of *mahant*.

(13) *Rawatpur Trust*.—Ramlal temple, Cawnpore (Rawatpur Trust) furnishes a sad instance of an endowment, the bulk of whose property has been dissipated in litigation, bringing the annual income down from Rs. 60,000 to Rs. 15,000.

(14) *Swami Narayan Trust*.—The Swami Narayan Trust in Chapia, district Basti, with endowments worth crores of rupees and constituting the biggest religious trust in the whole province (if not in all India) is in a similar predicament owing to the same cause; and there are lots of other religious trusts wherein litigation plays much havoc, not merely with the income but also with the assets themselves, into details of which we need not go.

(15) *Dakorji temple*.—It would not be out of place to refer to a case outside these provinces which, perhaps, is the worst instance of this type and may be fittingly described as the Hundred years' War of Dakorji



temple in the Bombay Presidency (reported in 44 Bom., 150; 12 Bom., 247; 24 Bom., 50; 15 Bom., 319; 15 Bom., L. R. 13; and 44 Bom., 150) wherein the litigation began early in the eighteenth century and came to a close in 1919. But litigation commenced soon again and is still going on.

(c) *Alienations to persons of alien faith.*

(16) *Temple of Seetla Devi Kara.*—The temple of Seetla Devi at Farahimpur Kalesar Mau, close to Kara in the Allahabad district, is of some antiquity; and large fairs are held on certain days in Chait, Asarh and Sawan every year attracting thousands of persons from the surrounding country. The temple is in charge of certain families of *malis* who are Hindus, and have been administering to the needs and comforts of the worshippers visiting the temple. In 1920 certain Muhammadan *malis* claimed the right to officiate as *pujaris* of the temple and received offerings, on the strength of some mortgages of the right to take offerings, said to have been obtained from some Hindu *malis* at one time in charge of the temple. The disputes between the two sets of *malis* continued <sup>(12)</sup> between 1917 and 1921; no less than five cases were fought in the law courts relating to this temple. As a consequence the temple is in urgent need of repairs and the affairs of the temple are in a deplorable condition.

(d) *Inconvenience to pilgrims.*

(17) *Shri Vishvanath and Anna Purna temples, Benares.*—The great temple of Shri Vishvanathji at Benares and the Anna Purna temple close by it stand in a very crowded locality; and on great *mela* days, which take place several times during the year, the approaches to the temple get very congested; and some arrangement for widening them and opening up the area leading to the *ghats* requires to be pressed on the attention of the persons in charge of the temples, who appropriate the offerings made at the temples and have done little for the comforts of those by whom the offerings are made.

(18) *Brahmakund Ghat, Hardwar.*—The Brahmakund Ghat, Hardwar, though sufficiently large and broad for ordinary purposes, requires to be extended to prevent the congestion and undue detention of men, women and children at the barriers on the *mela* days; and the Committee is glad that the Municipal Board of Hardwar is directing its attention to the matter. There are *ghats* at many other places which are lying neglected or in a dangerous or dilapidated condition and we do not consider that public support will be wanting if an organized effort is

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<sup>(12)</sup> *Babu v. Sukha*, A. I. R., 1923, All., 123.



made by some responsible body in charge of public religious and charitable endowments for the upkeep and repair of these *ghats* which are of great public utility.

(19) *Vindhyachal temple*.—The Vindhvasini temple at Vindhyachal always attracts a large crowd of worshippers from distant places. The offerings are appropriated by the Pandas; no proper arrangement exists for the proper sanitation of the surroundings and the repair and improvement of temple buildings. The pilgrims are put to great inconvenience as the entrance to the inner shrine is through a small door and the place available inside is hardly enough for more than half a dozen worshippers to stand at a time.

60. *Local apathy*.—Both in Benares and Mirzapur there are some *maths* and temples, the properties of which are stated to have been alienated by the persons in charge of the management; and the evidence discloses that little local interest has been taken by the people to question the alienation or get back the property. The fact is that in the absence of a standing local committee vigilantly watching the management of these institutions, any manager, needy or greedy, may alienate the property with impunity. At almost every place visited by the Committee complaints were made by the witnesses that numerous temples and other public buildings, intended for religious or charitable purposes, were going into ruins either on account of neglect by the persons in charge, or owing to the temple or building concerned having no income or endowment for its support and maintenance. Some of these temples are deteriorating for want of proper repairs; others, notable for their antiquity or architectural beauty, are lying neglected, because there is no one to look after them. Tanks built for the public benefit are lying uncleared or overgrown with weeds or moss; and the stones of the *ghats* around the tanks are at the mercy of any one who wants to take them away. The stone *ghat* in front of the Raja Basuki temple at Allahabad, occupying a commanding position opposite a bend of the river Ganges, is lying in a dilapidated condition. There are beautiful *ghats* at Mirzapur and elsewhere made of stone and containing much work of art. They are being undermined by the action of the river; and the buildings and the temples standing thereon are here and there overgrown with weeds and plants, which, if not removed in time, will widen the breach. At Mirzapur the sub-committee which visited the place found on the road leading to the Vindhyachal temple, behind the Govardhan Gauspala, two temples made of stone, which appeared to have fallen or been destroyed, and the idols or deities installed therein were lying outside on the ground among a heap of exquisitely carved stones, apparently removed from the temples. It is noted with intense regret that the



Ancient Monuments Preservation Act (VII of 1904) has very sparingly been applied to such buildings.

61. *Effective preventive measures necessary.*—In view of the facts mentioned above, it is obvious that some effective means must be found to prevent the properties and endowments being wasted by misconduct of *mahants* or trustees, by protracted litigation, or by unauthorized alienations, and to secure the fulfilment of the objects of the trusts and endowments, the sanitation of important places of public worship, and the convenience and comforts of the worshippers.

62. *Religious neutrality no bar for providing such measures.*—It is urged sometimes that the Government is committed to a policy of religious neutrality, and that the reform of religious endowments should be left to the growth of public opinion or social propaganda. It is necessary, however, to point out that there are existing laws, which are intended to protect public rights by requiring the managers to keep accounts and rendering them liable to removal if they are guilty of misconduct. The laws only require to be strengthened in order that at least the same protection might be given to public endowments as is given to the property of minors or disqualified persons. According to the Hindu notions, the property endowed for religious purposes is vested in the deity, who is a juristic person incapable of managing his property except through his agent or manager, who administers the property for him. What is wanted is some authority, local or central, to look after the protection and preservation of these properties, and the proper application of the funds to the purposes for which the endowments were made. The courts have at present authority to exercise sporadic control, when moved for the purpose. But the reasons for the individual reluctance to move and take personal responsibility are the same in this country as elsewhere; and if, even in England, with a richer population and with modern education and public spirit more widespread and general, a central authority is needed to put the administration of charitable endowments on a satisfactory footing, and to reduce the necessity of people having to go to the ordinary courts for the solution of their difficulties, the necessity in this country for some standing central authority to supervise the management of these endowments, to give suitable directions to the trustees or managers, and to prevent the misappropriation of funds or the alienation of endowed property can hardly be gainsaid.

*Prevention is no interference with religion.*—It is futile to argue that by creating such an authority the Government would be interfering with the religious beliefs or rites of the Hindu community. No such question was raised when Act XX of 1863, or section 92 of the Code of



Civil Procedure, or Act XIV of 1920 was passed by the Imperial Legislature. What is wanted here is not interference with any forms of religion, or religious practices connected with the objects for which the endowments were created, but merely the enforcement of the rights of the persons professing that religion (that is of those for whose benefit the endowments were made) to see that they are properly administered.

63. *Control in Indian States.*—The supervision of the management of temples and religious places is recognized in almost every Indian State as one of the essential functions of Government. The Ruling Princes are deeply interested in the well-being and advancement of religious endowments. Many of these were founded or endowed by their ancestors, and most of them receive, or used to receive, periodical pecuniary contributions from the State. The leading Indian States have therefore made provision for the protection of religious and charitable endowments by the appointment of a Minister or Superintendent to look after these institutions. The following instances will suffice to illustrate our point :—

(a) *Baroda.*—In Baroda, for instance, the State has a department of endowments under an officer called the Dewasthan Adhikari, who controls the institutions that receive aid from the State or over which the State has undertaken to provide supervision.

(b) *Gwalior.*—In Gwalior a Central Committee, working through District and Tahsil Committees, is appointed by the State, and the Tahsil Committees are appointed by the Suba, or the District Officer, with due regard to the wishes of the people, and they exercise supervision over aided institutions, and also over others placed in their charge by an order of the court, or at the request of the sect to which they belong.

(c) *Hyderabad (Deccan).*—In Hyderabad (Deccan) there is a Superintendent of religious endowments for the whole State, with provincial, district and Taluqa Superintendents of Endowments under him ; and they are required to maintain a register of endowments and supervise their management to prevent the misappropriation of the trust funds.

(d) *Mysore.*—In Mysore some powers are given by Regulation VII of 1927 to the Muzrai officers, including the Deputy Commissioners and Assistant Commissioners, to look after Muzari institutions, i.e., those receiving a grant-in-aid from the State or under State management ; and in regard to the remaining institutions, other than *maths*, the Muzrai officer is allowed, with the sanction of the State, to take over the management of any institution, or to obtain security for the due fulfilment of a trust, or to frame a scheme for its management, subject to the right given to the party aggrieved by the order of the Muzrai officer to sue for its cancellation in the principal civil court of original jurisdiction, within



whose local area the greater part of the property of such institution is situated. The Regulation further provides that, in certain specified cases, the Government can take over the possession and management of a *math* and its property, and direct an enquiry to be made into any complaint of mismanagement, misapplication or alienation of the *math* property by a committee of not less than three persons, one of whom should be a disciple or other person interested in the *math*. In case of wrongful alienation of endowed property the Muzrai officer can, after summary enquiry, restore the property to the endowment, the party aggrieved being free to challenge the restoration by suit within six months.

(e) *Travancore*.—In Travancore the Dewan has very extensive powers of supervision over religious endowments, and in cases of apprehended misappropriation he can take preventive measures. The proclamation of April 12, 1922 constituted the Dewaswam department at State cost for this purpose.

(f) *Tehri Garhwal*.—Tehri Garhwal not only supervises the management of the property of religious endowments, through the Superintendent of Endowments, but also requires every *mahant* and *pujari* to learn the *mantras* and method of worship and prayers of his deity, and provides that the *puja* of temples with no money is to be performed at the cost of other temples of the same sect with the permission of the State.

(g) *Other States*.—Other Indian States have also made suitable provision for the protection of the property of religious and charitable endowments. In some of the States the permission of Government is necessary for building a new place of worship, one of the essential requisites for permission being the provision of adequate funds for its maintenance.

64. *Palliatives not enough*.—In British India the existing provisions have, as already pointed out, been found to be inadequate. Mere palliatives are not enough to cure a malady requiring a more drastic remedy; and the provision of a central authority to exercise control is urgently needed.

65. *Increased income when supervision exercised*.—Before we proceed to discuss our recommendations it may be useful to see how the appointment in recent years of a supervising authority has resulted in better administration of religious endowments in Madras. From the reports of the Board of Charity Commissioners in Madras we find that in the first year of their work (April 1, 1925 to June 30, 1926) there was marked increase in the income of a number of institutions in their charge—in six of them of 50 per cent., and in one of 500 per cent. The following years also show a similar record, there being an increase in the case of 27 institutions ranging between 50 to 450 per cent.



## PART II

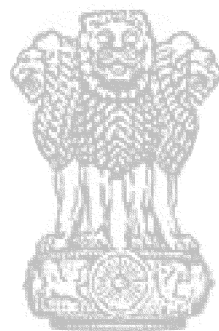
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## RECOMMENDATIONS



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## CHAPTER V.

## REMEDIAL MEASURES.

66. *Heads of proposals.*—We now come to the measures we propose for the better protection of Hindu religious and charitable endowments, institutions and funds, which it will be convenient to split up under two heads, viz., (1) Administrative, which may better be sub-divided into Remedial Measures and Subsidiary Proposals; and (2) Financial. We shall deal with each of these separately. But before we do so we would like to state the broad principles upon which our proposals are based. These principles have received the general support of the witnesses we have examined.

67. *Elected Central Board favoured.*—To begin with, we are in favour of an elected Central Board for the whole province, to be created under the Statute. So far as the Government is concerned, we are fully aware that it stands committed to the policy underlying Act XX of 1863, and as long as that exists we are unable to make suggestions that may tend to revive the active concern of Government with such institutions. We have deliberately used the word “active concern” for we do not wish to rule out Government altogether from our proposals. In our opinion Government should have, at least for some time, the power of appointing the President of the Central Board. Beyond this the Government will have no hand in the affairs of Hindu endowments.

68. *Charity Commissioner and Protector rejected.*—We have given our careful consideration to the other two suggestions made to us as regards the main administrative machinery to be set up for the province as alternatives to the Central Board; but for reasons given below we have rejected them both. The first is in regard to the appointment of Charity Commissioners, as under the English Law relating to secular charities. The second alternative suggested is the appointment of a Protector.

The number of witnesses who are in favour of the above suggestions is 11 and 10 respectively out of 556, while the number in favour of an elected Central Board is the largest, being 315. The remaining 220 while strongly in favour of reforms did not suggest any specific measure. On that consideration alone we should be justified in rejecting these



proposals, but there are, in our opinion, other serious objections from which we are satisfied that neither a Board of Charity Commissioners nor a Protector will be a suitable remedy in this case. In either case the controlling authority will be nominated by a foreign Government; or at best by the political party in power. Supporters of these proposals argue that much force of this objection disappears when it is remembered that no interference with the internal management is suggested, that the administration of the income will continue to be vested in whatever authority is appointed for the purpose in accordance with the terms of the foundation or usage; and that the Charity Commissioners or the Protector will mainly have to see to the strict application of the income and property of the endowment, institution or fund in question, to the purposes for which it was founded. But we find that not only the vested interests, but also the Hindus in general are opposed to any system by which the control over their religious and charitable institutions may be exercised by an alien Government, or be made the subject of patronage by contesting political parties. It is true that the Minister in charge who will make the appointment shall be responsible to a popularly elected legislature. But the legislature, elected on a different platform for secular purpose, is not likely to command the confidence of those bodies for whose welfare the controlling authority will be appointed. On the other hand, the mixing of these two different issues may lead to confusion at the time of the elections, the result of which may be that political issues, for which the legislature mainly exists, may be jeopardized. It is also to be feared, as one witness has put it, that "the appointment of Charity Commissioners by the Government will reduce Hindu endowments to a department of the Government; and departmental activities are dead activities, they do not pulsate with life. Red-tapism chokes the life out of them; and these are vital matters which we are dealing with." Even Lord Curzon denounces departmentalism thus: "Departmentalism is not a moral delinquency. It is an intellectual hiatus—the complete absence of thought or apprehension of anything outside the purely departmental aspects of the matter under discussion<sup>(1)</sup>." Moreover, the Government does not desire and has, in fact, been persistently refusing to exercise any control over these endowments, institutions and funds and the property belonging to them. Complaints of mismanagement have, from time to time, been pressed on its attention by different public bodies and legislatures; but the Government has not moved in the matter. It is eminently desirable that the Government, even when the subject is under the control of a popularly elected Minister, should strictly adhere

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(1) Note by Lord Curzon, dated May, 1902, upon the proposed changes in the court language of a border district in Bengal, published in the *Statesman* and referred to in Lord Zetland's life of Curzon.



to this policy. The appointment of a Protector is further open to the most serious objection that it will bring in its train all the evils of dictatorship. We have some knowledge of the conditions in a dictatorial government, and may safely say that a dictator is unpopular, even with the best of intentions. His Holiness Shri Jagadguru Shri Shankaracharya says: "Any scheme that provides for the appointment of a Protector or a number of Charity Commissioners by the Government cannot be expected to command the support of the Hindus in general and the *sadhus* in particular." With this weighty pronouncement, we entirely agree.

69. *Sampradayik touch necessary*.—Secondly, we are of opinion that our main administrative body should not be out of touch with Sampradayas, to which great stress has been laid in the evidence before us. We recognize that cases may often arise, in which a knowledge of the rules and tenets of a sampradaya may not only be desirable but very necessary. We also believe that by maintaining touch with the Sampradayas, it would be possible to promote that mutual sympathy and understanding, which are necessary attributes of a successful administration. We are aware that the question as to the measure of touch to be maintained with the Sampradayas is one which cannot easily be answered. It must, necessarily, take us into detailed consideration of various problems, large and small, governing the question, which we shall avoid at this place, while we are stating only general principles.

70. *Scope*.—Thirdly, we are of opinion that the proposed legislation should apply to all religious and charitable endowments, institutions and funds of the Hindu community, including those belonging to Arya Samajists, Jains and Sikhs, which may be of a public nature, subject to such restrictions, as may be imposed. We would, however, exclude purely secular institutions like Universities, Colleges, Schools, Allopathic dispensaries, etc., from the purview of the proposed legislation, because they are working under the control and supervision either of the Government, or of a public authority, or are governed by Statute. We would further wish that certain old *akharas*, some of which are registered under the Societies' Registration Act, XXI of 1860, and the *Maths*, *Asthals*, or *Asthans* attached to them should be placed on a somewhat higher footing in the general scheme of things under the new constitution. We are taking the line of least resistance. In view of that observation, and of the special features peculiar to these *akharas*, we consider ourselves justified in treating them with certain privilege.

71. *General*.—Lastly, we would desire to see the revival of those ancient traditions in the management of these institutions under which



their popular or democratic feature was preserved and stimulated. We would like to see that the temple of God is open alike to the rich and the poor; that the greatest good results to the greatest number of Hindus, consistent with the objects of any institution or trust; that where such objects have failed or become incapable of being fulfilled, or where the income of an endowment still leaves a large surplus after their satisfaction, the doctrine of Cypres is adopted, so as to secure the greatest benefit to the Hindu community.

72. *Specific proposals.*—Having stated certain general principles, which we consider of supreme importance in any scheme for the protection of Hindu religious and charitable endowments, we shall now set forth our specific proposals on the subject. Here again, we may add, that these proposals have been brought into accord, as far as we have found practicable, with the general sense of the public opinion in this matter, in these provinces.

As we have stated earlier, the measures we will suggest are of two kinds; Administrative (comprising Remedial Measures and Subsidiary Proposals) and Financial. We shall deal with Remedial Measures alone in this chapter. The Subsidiary Proposals will be dealt with in Chapter VI and the Financial Provision in Chapter VIII.

73. *Central Board and Area Committees.*—Our first proposal is to set up a Central Board for the entire province, and an Area Committee in each local area. The Central Board will be the main executive body for the province, while the Area Committees will carry out, within their respective areas, such duties as may be assigned to them by the Central Board. A very small number of the witnesses examined by us, has been opposed to the creation of any central authority, principally on the ground of economy, and also because it is thought decentralization will work better. According to this class, the Area Committees should have all those powers in respect of institutions within their local area, as might be considered suitable for the Central Board to possess over the endowments in the province. We see some palpable defects in this suggestion which makes it wholly unacceptable to us, as also to the very large majority of witnesses, whom we have examined. In our view, it is of the utmost importance to have a Central Board, which will serve to co-ordinate and regulate the activities of the different Area Committees. We are certain that without the existence of some such central authority, as we have proposed, the independent administration by the Area Committees is often likely to give rise to serious anomalies, resulting in frequent dissatisfaction to the public. As every one must be fully



aware, the present unsatisfactory condition of the Hindu religious and charitable endowments in this province—nay, throughout the whole country—has very largely been due to the absence of the local zeal and interest, in their working. Consequently, we consider that the correction for this, is not to be found in any increased local powers, but in the creation of a strong central authority, fully alive to its responsibilities, with regard to these endowments, and having power to exercise effective control in their affairs. We do not, in the least, wish to minimize the importance of a local agency, in this matter. It will be seen that we have ourselves proposed its formation. Our only concern is that, left to themselves, the Area Committees are almost certain to languish into decay, or exist as feeble bodies, lacking the force and vitality, so necessary for strong action. Another danger we apprehend is that the Area Committees, where they show some activity may, in the absence of a central authority, very likely be so rent up with local intrigues and dissensions as to render themselves unfit for any useful work. The same will not be the case, if we have a Central Board, to which the various Area Committees may be subordinate. The Central Board, on account of its detached position, will not be liable to be influenced by local conditions to the same extent as an Area Committee, and may be relied upon to exercise salutary influence over the latter. We think the Central Board is absolutely necessary for the purpose of keeping the Area Committees properly alive to their responsibilities, and for providing for the exercise of effective check and supervision in the management of Hindu religious and charitable endowments, which have during all these years, known nothing but neglect, waste and peculation. As to the ground of economy, urged against the establishment of a Central Board, we must state clearly, and once for all, that we would ourselves like economy practised in all directions, as far as practicable; but we shall be no party to economy, which may promote inefficiency and irresponsibility. Yet this is exactly what must happen, if we have to give up the proposal for the creation of a main executive authority for the province, on financial grounds. We have taken into account proposals tending to make the working of the Central Board economical which will all be set forth in this chapter. But our first aim has throughout been to secure the highest efficiency in the administration; and consequently, where we have seen danger of that suffering, because of some proposal to secure economy, we have had no hesitation in ruling the latter entirely out of our consideration. Having thus stated our settled opinion as regards the creation of a Central Board for the whole province and Area Committees in each local area, we shall now pass on to mention the other bodies we want to be set up.



74. *Central and Area Denominational bodies.*—We have stated before that the general feeling of the Hindu community is in favour of Sampradayik autonomy. The control over religious and charitable endowments through the Sampradayik organizations affords the best line of advance, and in our view, such organization should be fully representative of the elements which constitute the Sampradaya, viz., the *mahants*, the *non-mahant sadhus* and the *grihastas*. Accordingly, we propose to set up committees of the Sampradayas at the centre, and in each local area whose relation *inter se* will be analogous to that suggested between the Central Board and the Area Committees. It does not seem to us necessary to constitute a committee for every Sampradaya, nor is the task by any means practicable. The general trend of evidence given before us makes it quite evident that there are certain main Sampradayas, in which the various smaller Sampradayas are included, and there will hardly be any Hindu, who does not come under one or other of them. In our opinion, it would do for all practical purposes, to constitute a committee for each of such main Sampradayas, and we have no doubt that the arrangement will be satisfactory to all concerned. We, therefore, suggest that denominational committees, at the centre and in each local area, should be constituted for the following main groups of the Hindu community :—

- (1) Shanker (Smart) Sampradaya
- (2) Vaishnava Sampradaya
- (3) Udasi Sampradaya
- (4) Sikhs including Nirmalas
- (5) Jains and Buddhists
- (6) Arya Samajists and
- (7) Anya Sampradayas (miscellaneous) e.g., Gorakhnathis, Radhaswamis, Brahmasamajis, etc.

We wish to make it absolutely clear that the Central Board should not interfere with the autonomy and the internal administration of any Sampradaya. Such matters should be dealt with only by the committee of the Sampradaya concerned. The Central Board shall only deal with matters of interest to all.

75. *Joint Committees (Central and Local).*—There will nevertheless be certain matters which relate purely to charitable institutions and other institutions not appertaining to any one particular Sampradaya. In our opinion, it would be expedient if such matters are dealt with by a special committee. There will have to be one such committee at the centre, and one in each local area, and their relation *inter se* will also be the same as that we have suggested between the Central Board and



the Area Committees. We consider these bodies may be fittingly described under the name of Joint (Central) Committee, and Joint (Local) Committees.

76. *Board of Arbitration.*—Another body to be set up under our scheme—and this is the last of our suggestions in this respect—is the Board of Arbitration to be constituted whenever necessary. A large section of the public, including some district and subordinate judges, strongly advocated the appointment of a Judicial Tribunal. The public opinion has frequently condemned before us the law's delays and the expensive nature of legal remedies available. We have also learnt from trustworthy sources that the decision of cases relating to endowments has, in not a few instances, proved unsatisfactory to the ecclesiastics, who have found that the courts are, perhaps rightly under the existing order, unwilling to enter into the question of the religious tenets of any Sampradaya, even though they may have an important bearing on the case. In future, however, if our scheme is to come into effect, the Sampradayas are bound to play an increasing part in the administration of Hindu religious endowments, and we cannot conceive of cases of succession or removal of *mahants* being decided otherwise than in accordance with the rules of the Sampradaya. The Board of Arbitration will be a Judicial Tribunal, and it will decide all cases relating to endowments, which are at present tried by the ordinary courts. The jurisdiction of these latter will be barred, except in cases which the Board of Arbitration may specifically refer for their disposal. A Board, such as this, will tend to secure a uniform principle and expedition in the decision of cases; and costly litigation will be avoided. It may also be pointed out, that as early as 1860, an experienced Government officer like Sir (then Mr.) John Strachey had prophesied that to provide "that all questions that may arise (relating to endowments) shall be determined by the ordinary courts of law is to provide for nothing", and "to leave (endowments) to the chance of the protection of the civil courts is in other words to leave (them) to the probability or rather to the certainty of injury and ruin<sup>(2)</sup>. The prophesy has alas only proved too true. There is, and can be, no legislation governing the internal management of religious endowments to guide the courts in respect of them. Under these circumstances decisions by courts amount to judicial legislation. "But legislation by Indian Judges has all the drawbacks of judicial legislation elsewhere and a great many more. As in other countries, it is legislation by a legislature, which from the nature of the case, is debarred from steadily

(<sup>2</sup>) Letter No. 74, dated July 23 1860, from the Collector Moradabad to the Officiating Commissioner, Rohilkhand.



keeping in view the standard of general expediency. As in other countries, it is haphazard, inordinately dilatory and inordinately expensive, the cost of it falling almost exclusively on the litigants. But in India, judicial decision is, besides, legislation by foreigners, who are under the thralldom of precedents and analogies belonging to a foreign law developed thousands of miles away, under a different climate and for a different civilization<sup>(3)</sup>.

77. *Ecclesiastical Law*.—The control the Sampradayas exercised over such religious endowments in pre-British days, which they would again exercise under our scheme, is quite in keeping with the laws of England and Japan on the subject.

(a) *In England*.—In England the law provides for the appointment of Charity Commissioners<sup>(4)</sup>, who control secular charities other than purely educational (which are controlled by the Board of Education). But ecclesiastical charities, which are analogous to the endowments, institutions and funds we are dealing with, are outside their jurisdiction. Their control is vested in the Ecclesiastical Authority, and they are governed by the Ecclesiastical Law, which consists of such canons and constitutions ecclesiastical, as have been allowed by general consent or custom within the realm, as altered and supplemented by statute. The Church has its own courts, whose powers are very wide, *e.g.*, they can try and punish the parishman for non-attendance and failure of other duties. They are even empowered to pass sentences of imprisonment in certain cases. They also deal with cases relating to benefices and the conduct of the clergy, and their decisions are recognized by ordinary courts of law. The Roman Civil Law also admitted the right of the Church to legislate in ecclesiastical matters and to administer its disciplinary law by its own courts. It will be noticed that in English legal parlance the word "church" is not confined to Christian churches alone, but includes a society of individuals characterized by religious beliefs capable of expression in some common form, and organized on the basis of such religious beliefs. The word "church" has been held by the Privy Council to include an association for the purpose of Muhammadan religion<sup>(5)</sup>. Even an unestablished religion, which in matters of doctrine, government and discipline is free from State control, may constitute its own tribunal to determine if its rules have been violated, and impose penalties for violation. The decisions of these tribunals

<sup>(3)</sup> Minute of July 17, 1879, on Indian Codification in Minutes, by Sir H. S. Maine, Calcutta, 1890, p. 224.

<sup>(4)</sup> Halsbury's Laws of England, Vol. IV (Charities).

<sup>(5)</sup> Ibrahim Esmail and Abdul Carrim Peer Mamode (1908 A. C. 526, 536, P. C.).



are also binding and enforceable by Courts of Law when questioned. In fact the Civil Court cannot interfere with these institutions<sup>(6)</sup>.

(b) *In Japan.*—In Japan, too, the Judicial department within each sect checks and punishes embezzlement and misapplication of funds, etc., of religious endowments, by the prescribed ecclesiastical law of each sect, the Government supervising only the external activities of all sects through the Religious Bureau attached to the Department of Education<sup>(7)</sup>.

All this clearly supports our view that the management and discipline of the institutions we are dealing with, should in the main be controlled by the Sampradayas concerned, which correspond to the various Churches in England.

78. *Strength of the Central Board and of the Area Committees.*—We now address ourselves to the constitution of the various bodies we have proposed to be set up. The witnesses who have given evidence before us are almost equally divided on the question of the strength of the Board. Those who are in favour of a large body assert that it would be possible to secure adequate representation of the various interests involved, only on such a body, and it alone is likely to be popular. We would ourselves want the Central Board to be a representative body. We mean a body that will enjoy the absolute confidence of the majority of Hindus, and may not be unpopular with the trustees or others, whose conduct and actions will frequently come up in judgment before it. We understand such a body to be a representative body, even though it may be small. The interests that are particularly to be protected are three-fold, the donors, the trustees and the beneficiaries; they are included in the elements constituting a Sampradaya, i.e., the *grihastas*, the *mahants* and the non-mahant *sadhus*. We do not believe that a large body of 100 or 50 men, as has been suggested to us, can alone be in a better position to represent these interests; on the other hand, in our opinion, a small body can serve the purpose better. A large Central Board can hardly be suitable for executive work. We do not know of any large body, which has ever been entrusted with administrative duties, or having been so entrusted, has ever discharged them efficiently. A large body is generally considered fit for deliberation, but never for administration. We find this fact is not disputed by any of those who advocate a large Central Board, and it is to meet that objection that they suggest the appointment of an Executive Committee, and also of a Working Committee, if necessary, for the performance of the executive

<sup>(6)</sup> Hallsbury's Laws of England, Vol. XI—Ecclesiastical Law in England.

<sup>(7)</sup> Chief Abbot of Nishi, Hongwanji, Kyoto, Japan.



functions of the Board. We are aware of certain organizations, where all these bodies are to be found, but we would point out that no correct analogy can be drawn from these organizations. We think such bodies to be entirely unsuited for our purpose. A large Central Board with an Executive Committee, and another Working Committee, if we were to accept that suggestion, must necessarily mean considerably more expense, and we doubt the justification of it, when only one body, if it is a small Central Board, can function equally, if not more, efficiently. It also means setting up a complicated machinery, when a simpler and more effective remedy is possible. We may also point out that a smaller body tends towards more harmonious working, than a bigger one; that a large body often fails to evoke in the members, the same sense of responsibility and earnestness, as does a small body; that the proceedings of a large body are likely to be more cumbrous and dilatory than those of a small body. We are therefore strongly of opinion that a small Board and Area Committee will be more expedient. In view of the powers we propose the Board or an Area Committee to be invested with, and Sampradayik autonomy which forms the foundation stone of our recommendations, we propose to give equal representation to the three elements constituting each Sampradaya. The Board or an Area Committee will thus consist of 21 or, if the President happens to be an outsider, of 22 members.

79. *Nomination by Government and election by public bodies not feasible.*—The next question is whether these bodies should be constituted wholly by election or nomination by Government, or partly by election and partly by such nomination. Nomination by the Government of all the members is obviously open to the same objections as the appointment of a Protector or a Board of Charity Commissioners. Nomination of some members by the Government is unnecessary, when all the interests concerned can be adequately represented by election. Further, nominated members do not always command the confidence of the people to the same degree as their own chosen representatives do. Some witnesses have proposed that the power of electing representatives to the Board should be given to certain recognized institutions like the Legislative Council, the Municipal and District Boards, the Agra Landholders' Association, the British Indian Association, the Universities, the Hindu Sabha, and other similar public bodies. But these are mainly political or civic bodies which, as such, are unconcerned with the institutions we are dealing with. Others have suggested that representation may be given to religious societies like the Sanatan Dharma Sabha, the United Provinces Dharma Rakshana



Sabha, the Bharat Dharma Mahamandal, the Arya Pratinidhi Sabha, the Brahmo Samaj, the Singh Sabhas, the Jain Panchayats and other such institutions in the United Provinces. But the constitution of many of these institutions is of an indefinite or fluctuating character; and all the interests that ought to be represented on the bodies we have recommended may not find their due and adequate representation on these bodies.

*Sampradayik representation.*—Other witnesses have suggested that electorates should be formed of men belonging to different Sampradayas, and should also include householders of those persuasions, and that electoral circles should be formed, for this purpose, in each district or group of districts. We entirely agree with this view. The question of granting separate representation to different Sampradayas is, under their present disorganized condition doubtless difficult. But one point is obvious, that a large Central Board, as we have already said, would be unmanageable and expensive. We are conscious of the difficulty which the division of the Sampradayas into numerous sub-sects may present, but we believe that the doctrinal differences existing among the sub-sects of a Sampradaya are not material for our purposes. In fact, common organizations of each Sampradaya, as well as of all Sampradayas, do exist and are known to be working smoothly. Any effort to grant separate representation to sub-sects would make the Board unnecessarily unwieldy and may interrupt the process of fusion which is going on. We therefore consider that the Central Board should consist of the following main groups of the Hindu community, as mentioned above :—

- (1) Shankar (Smart) Sampradaya,
- (2) Vaishnava Sampradaya,
- (3) Udasi Sampradaya,
- (4) Sikhs including Nirmalas,
- (5) Jains and Buddhists,
- (6) Arya Samajists, and
- (7) Anya Sampradayas (Miscellaneous), e.g., Gorakhnathis, Radhaswamis, Brahmasamajis, etc.

Of these, the Shankar (Smart), Vaishnava and Udasi Sampradayas and the Sikhs including "Nirmalas" will each be represented by a *mahant*, a non-*mahant sadhu* and a *grihastha*. There are no *mahants* among Jains and Buddhists, Arya Samajists, and some of the Anya Sampradayas. We have had no opportunity of consulting their wishes after formulating our recommendations. We therefore recommend that while each of these three groups should also have three representatives on the Board, the distribution of seats among their elements should be made



after consulting the wishes of the groups concerned. Thus, in our opinion, all sections of Hindu community affected will be fairly represented. It stands to reason and justice, that the various Sampradayas should resent interference in their internal affairs, by people outside their fold. We are therefore against any distinction being made between one Sampradaya and another, as regards the strength of representation on the Board. On the other hand, absolutely equal treatment should be awarded; and the rules and regulations should be so framed that, in spite of the existence of numerous sects and sub-sects, the elections may be confidently looked forward to, for returning the most suitable and all-round acceptable men for the nature of the work required to be performed by the members of the Board. It should be elected by a regular series of electoral colleges of the various Sampradayas.

80. *Electorate for the Area Denominational Committee.*—This takes us on to the question of the basic electorate of the whole scheme—the electorate for the Area Denominational Committees. With the meagre data available, it is difficult for us to prescribe the qualifications of the electors, with any amount of definiteness. We leave them for the Registrar of Hindu Endowments, whose appointment we suggest in Chapter IX, to lay down in the light of the material collected. We would, however, suggest certain broad considerations, which may be kept in mind. The electors should be Hindus and should profess the Sampradaya, of which they are the electors, and the declaration by them of their Sampradaya should be deemed sufficient. We are of opinion that the method of election should be of the simplest and easiest character practicable, and that the electorate should be so constituted that while it may ensure the representation of people really interested in the welfare of the Sampradaya concerned, it may not, at the same time, become unwieldy or cumbrous in size. Any scheme which renders possible expensive election campaigns of the manner of legislatures and local bodies should be deprecated. Property qualifications may not always bring out the best elector for our needs. Some method has to be found by which persons of a religious or charitable bent of mind may get a preponderant voice in the selection of their representatives. We note that the rules framed under section 10 of Act XX of 1863 in Bengal, required a register to be kept of all the persons interested in the welfare of any temple, and conferred on them the right of electing the Temple Committee. In England, persons of both sexes and corporations rated for the relief of the poor in respect of a Parish have the right to become members of the vestry—a Council constituted in the Parish which elects



certain officers of the Church<sup>(\*)</sup>. Similarly, one line of approaching the problem may be to confer franchise on regular worshippers at the temples of every Sampradaya in the area, or on the founders (including their successors) of all religious and charitable endowments, institutions and funds, and their nominee or nominees, or on certain contributors and donors thereof. All these proposals will have to be carefully examined by the Registrar of Hindu Endowments in the light of the data he collects. He shall also determine where, and the number of districts for which, Area Committees should be constituted, the size of their constituencies and the mode of election.

81. *Constitution of the Area Endowments Committee.*—The Area Denominational Committees thus elected for a particular area, should together constitute the Area Endowments Committee, which shall be a body corporate.

82. *Electorate for the Provincial Denominational Committee.*—We now proceed to consider the method of election of representatives of each Sampradaya on the Central Board. We feel that, with committees duly constituted for various localities, a Provincial Denominational Committee of three members should be quite sufficient for the work of general superintendence and supervision over the endowments, institutions and funds, belonging to each Sampradaya. The members should have the power to divide, if they like, their work and functions in such manner as they may consider expedient. We therefore recommend that the members of all the Area Denominational Committees of each Sampradaya in the province shall together elect three members to the Provincial Denominational Committee of that particular Sampradaya. Here, too, we would recommend that, in the case of each of the first four Sampradayas, the members elected should be a *mahant*, a non-*mahant sadhu* and a *grihastha*, professing the Sampradaya concerned, while, in each of the other three cases, the distribution of the three seats should be made after consulting the wishes of the community or the Sampradaya concerned.

83. *Constitution of the Central Endowments Board.*—The Provincial Denominational Committees thus elected should together constitute the Central Endowments Board. The Board thus constituted shall be a body corporate, with perpetual succession and a common seal, capable of holding property and suing and being sued in its own name.

84. *Tenure of office.*—The next question we have to consider is about the term of office of the members of the Area and the Central Bodies. Almost all the evidence we have recorded falls into two groups,

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(\*) Hallsbury's Laws of England, Vol. XI, pp. 885-905.



viz., those in favour of a three-years' term, and those in favour of a five-years' term. There is a preponderance in favour of a five-years' term, and we ourselves think that to be more suitable, as it is likely to afford better facilities for work and a greater continuity of policy. The retiring members should, of course, be eligible for re-election.

85. *Internal autonomy of each Sampradaya.*—Before we proceed further, we wish to provide clearly that the Board or the Area Endowments Committee, as such, shall not interfere with the autonomy and the internal administration of any Sampradaya. Such matters should be dealt with by the Denominational Committees of that Sampradaya alone; and, only matters of interest to all, should be dealt with by the Board or the Committee. This is in keeping with the ancient traditions of the Hindus, and when, even in democratic Japan and England, a sort of denominational system is in force (as has been described above), certainly there can be no rational objection to a similar arrangement being revived in India. Matters affecting more Sampradayas than one, shall be dealt with in a joint sitting of the Denominational Committees concerned, or by a Joint Committee, or by the Board, or the Area Endowments Committee itself, as may be found necessary. We shall revert to this point later.

86. *Constitution of the Joint Committee.*—The Central Endowments Board and each Area Endowments Committee should appoint a Joint Committee of not more than five from among its own members, to deal with matters relating to charitable and other institutions not belonging to any particular Sampradaya.

87. *Constitution of the Board of Arbitration.*—The Board of Arbitration will not be a permanent body. It will be constituted for each case, when certain important judicial matters or appeals against certain decisions of the Central Board, specified elsewhere, are to be decided. It should consist of a nominee or nominees of the Board, a nominee or nominees of the parties or the appellant, and a nominee of the High Court or the Chief Court; or in case the valuation is below a prescribed minimum, of the District Judge. Area Committees shall have no power to appoint a Board of Arbitration but shall refer to the Central Board all cases in which the appointment of a Board of Arbitration is necessary.

88. *Executive of the Board.*—We now proceed to discuss the Executive of the Board. It has often been pointed out, and it is a matter of common experience, that executive authority cannot be satisfactorily exercised by a body like the Board; but that difficulty can and should be obviated, by vesting the executive authority of the Board



in its President, who will exercise it, on behalf of the Board according to the rules and regulations framed by the Board therefor.

89. *Appointment of President.*—The President ought to be a man in whom administrative capacity of the highest order is combined with piety and *shastric* learning to such a degree as to be able to command the greatest confidence not only of the Sampradayas, in the Board and outside, but also of the Government, who, according to our recommendation shall be responsible for financing the scheme. He should be above the lure of favours and fear of frowns of any party. Some witnesses have suggested that the President should be nominated by the Government. We do not agree with it, for reasons already discussed in another connection. A large majority of witnesses is in favour of an elected President, but election, especially to executive posts, is not always decided on considerations of efficiency and capacity, and sometimes the demands of constituents tend seriously to compromise the position of the candidate and to subject him to embarrassment resulting in the loss of initiative and enterprise. We, therefore, are unable to make the President's office merely elective; we are for a *via media*. In our opinion, the proper procedure for the appointment of the President would be for the Board to elect a panel of three persons and forward their names to the Local Government which should appoint one of them as President. In making the appointment due regard should be paid to the desirability of appointing the person who commands the greatest degree of confidence of all the Sampradayas.

90. *President to be a whole-time officer.*—The work of the Board may always, and specially during the early years of its existence, be expected to be particularly heavy and exacting, and at least a whole-time worker will be needed to secure efficient working. The President, who would be the chief executive functionary of the Board, should therefore be a whole-time salaried officer, unless, he be a *sadhu* who cannot accept a salary, in which case adequate allowance should be paid for his maintenance.

91. *Tenure of office.*—For reasons already mentioned, namely with a view to secure uniformity and continuity of policy, the President should be appointed for a tenure of five years. In fact, outside the services, a suitable man may not be willing to take up the appointment for a shorter term. When a member of the Board is at any time appointed President, the period of his Presidentship should terminate with the tenure of office of the Board; and an out-going President should be eligible for re-appointment.

92. *Ex officio chairmanship and casting vote.*—It is desirable that, in order to co-ordinate the activities and tendencies



of all the seven Provincial Denominational Committees and the Joint Committee, and make for the united progress of the Board as a whole, the President of the Board should be their ex officio chairman. When presiding he should have the right of a second or casting vote.

93. *Office-bearers of Area Committees.*—Each Area Committee should elect its own President, who should, in an honorary capacity, preside ex officio over the meetings of all the Area Denominational Committees and Joint Committee (where too, as in the Area Committees, he should have a second or casting vote), appoint, punish or remove any servant of the Committee in accordance with the rules framed therefor, and carry out such other duties as the Committee may from time to time entrust to him.

94. *Jurisdiction.*—We have now to consider the scope of the authority to be assigned to the Central Endowments Board and its subsidiary bodies.

*Charitable endowments not to be excluded.*—The Madras Religious Endowments Act (II of 1927) is confined in its operation to religious endowments. But, charitable endowments, institutions and funds are far more numerous and, if not of more, at least, of equal, importance; the *Shastras* draw no distinction between the two, and in practice too, it is not often easy to distinguish the one from the other. Consequently they too deserve to be included within the purview of the Board. Religious places are very largely visited by the people of all classes throughout the year; and acts of mismanagement can easily come to the notice of the beneficiaries, if they care to assert their rights. Charitable endowments, institutions and funds do not, however, come within the purview of the public to the same extent; and, the persons for whose benefit they have been founded may be scattered far and wide and be incapable of taking concerted action necessary for their protection. They serve a wider purpose and the need for their superintendence or supervision is equally great and urgent. The functions of the Board should therefore extend to all Hindu public religious and charitable endowments, institutions and funds in the province, belonging to the Hindu community or a sect or section thereof.

95. *Purely secular charities excluded.*—But, there are certain classes of institutions, such as the Universities, Colleges, and Schools founded, purely or mainly, for secular purposes, having little or no concern with religion. They have been created and incorporated under some statute, or constituted as societies or institutions working under the control and supervision of a department of the Government or of



some public authority. These institutions are autonomous bodies, the administration of which is regulated by their own constitution, as laid down in the statute under which they were established, or the rules of the department or other authority concerned. It is therefore not necessary or desirable that they should be placed under any further control.

96. *Pecuniary limit undesirable.*—We do not think it desirable to exclude institutions not having a prescribed minimum annual income, from the purview of the Board, because, apart from the fact that the annual income may be liable to variation each year, religious endowments, institutions and funds require protection from vandalism irrespective of their income; and *dharmashalas*, like those existing, for instance, at Nimsar and Kurukshetra, require to be protected, though they may have no income of their own. Charity Commissioners in Madras have reported that such exclusion in that Presidency has been a constant source of litigation and worry to them. Of course the extent and nature of the supervision will vary according to the importance, pecuniary or otherwise of the endowment, institution or fund concerned.

97. *Mixed objects.*—There may be endowments created partly for religious and charitable objects and partly for secular purposes, and the instrument of foundation may contain no provision, allocating the funds or properties separately for each of the purposes aforesaid. Section 21 of the Religious Endowments Act (XX of 1863) empowered the Board of Revenue, in such cases to determine, before withdrawing its own control, what portion, if any, of the property, should remain under its own superintendence for application to the secular uses, and what portion should be transferred to a trustee, superintendent or committee for religious purposes. Section 77 of the Madras Religious Endowments Act (II of 1927) empowers the Board, in similar circumstances, to determine what portions of such endowment or property, or of the income thereof, shall be allocated to the purposes falling within the Act. In such cases, we are of opinion that the Board should have the power to determine what portion of the property or income should be allocated, consistently with the intention of the author of the trust, to religious and charitable purposes, and, how much to secular uses; and to direct the application of the same accordingly. In some cases where the amount of income to be applied to secular uses and to religious and charitable purposes, may have been separately specified in the deed of endowment, all that is needed is, that the Board should have the power to call for an account if it thinks proper, of the whole endowed property, and satisfy itself about the application of its income to the various purposes prescribed by the author of the trust.



98. *Jurisdiction of Area Committees.*—We should now consider how the jurisdiction should be allocated between the Board and the Area Committees. In our opinion, the demarcation between the Board and the Area Committees should be on the basis of a prescribed minimum of income. In other words, the Board should be empowered to delegate to the Area Committees, all or any of its powers and functions in respect of endowments, institutions and funds whose annual income is below a prescribed minimum. These committees should also work as agents of the Board in such matters as the Board may prescribe.

99. *Classification of endowments.*—For the purpose of the application of our recommendations, the Hindu public religious and charitable endowments, institutions and funds in the province may be divided into two classes :—

- I. (a) Existing *akhara*s, namely, (1) *Juna akhara*, (2) *Nirvani akhara*, (3) *Niranjani akhara*, of the *Sanyasis*; (4) *Digambar akhara*, (5) *Nirvani akhara*, (6) *Nirmohi akhara*, of the *Vaishnavas*; (7) *Bara Udasi akhara*, (8) *Naya Udasi akhara*, of the *Udasis*; and (9) *Nirmala akhara* of the *Sikhs*, with their branches.
- (b) Associations, whether at present registered or not, formed for the purpose of Sanskrit education or the maintenance of *sadhya*s, poor-houses, *goshalas*, *Ramlilas*, etc., or the propagation of any creed and the like, and deriving their income solely from their members; and
- II. Other endowments, institutions and funds, including such *maths*, or *asthans* as are independent of an *akhara* named under class I(a).

100. *Institutions of Class I exempted.*—We propose that the Board should combine the function of recording with that of protecting all endowed property, against loss or wastage, and should also have power of *cypres* application of funds. But we recommend that in regard to endowments, institutions and funds of class I mentioned above, its duty shall be confined only to recording. The exemption of *akhara*s has been made on the ground that they are old institutions which run on definite and well-known lines, in accordance with recognized code of rules and regulations, and have got a controlling organization behind them. It is for this reason that complaints against their management are few and far between. We have also exempted certain associations defined in class I(b) of the preceding paragraph, because we think it unfair that the Board should exercise any control over associations, which derive their income solely from their members, and are managed by committees periodically



electe<sup>d</sup> by the general body of members. But in the case of all these exempted endowments, institutions and funds, steps should be taken for ensuring effective control by the members themselves, by applying certain provisions of the Indian Companies Act specified elsewhere. Beyond this the Board should have absolutely no control over such associations, and general body of members thereof should have perfect autonomy within the four corners of their Memoranda and Articles of Association. We would, however, recommend that in cases of malfeasance, misfeasance, nonfeasance and the like, relating to such exempted endowments, institutions and funds, suits instituted by members thereof under section 92, Civil Procedure Code, and similar enactments should lie before Board of Arbitration of the Central Endowments Board and not before the ordinary courts, as at present.

Having defined the scope of authority of the Central Endowments Board, we shall, in the succeeding paragraphs, consider the functions, we think, it should exercise.

101. *Powers and functions.*—Disputes about the history and constitution of these *maths*, *akharas*, *asthals*, or *asthans* frequently arise and it is desirable that the Board should maintain a register of all *maths*, *akharas*, *asthans*, temples and other religious and charitable endowments, institutions and funds of a public nature, giving the necessary information about their history, constitution and objects, the property, movable and immovable, attached thereto, with the approximate value and income thereof, and the custom or usage as to the appointment, election or succession of *mahants*, trustees or managers.

*The Musalman Waqf Act.*—Section 3 of the Musalman Waqf Act requires every *mutwalli* to furnish, within six months of the commencement of the Act, to the District Court, within the local limits of whose jurisdiction the property of the *waqf* is situate, a statement giving the following particulars :—

- (a) Description of the *waqf* property sufficient for the identification thereof;
- (b) The gross annual income from such property;
- (c) The gross amount of such income, which has been collected during the five years preceding the date on which the statement was furnished, or of the period which has elapsed since the creation of the *waqf*, whichever is shorter;
- (d) The amount of Government revenue and cesses and all rents annually payable in respect of the *waqf* property;



- (e) An estimate of the expenditure annually incurred on the realization of the income of the *waqf* property; and
- (f) The amount set apart, under the *waqf*, for the salary of the *mutwalli* and allowances to other individuals, and for purely religious and charitable purposes.

Every such statement is required, under that Act, to be accompanied by a copy of the deed or instrument creating the *waqf*, or, if no such deed or instrument has been executed, or a copy thereof cannot be obtained, it shall contain full particulars, so far as they are known or ascertainable, of the origin, nature or objects of the *waqf*. A person creating a *waqf*, a member of his family, or any of his descendants entitled to claim any benefit under the *waqf* is also required to furnish the above particulars, so that a permanent record might be maintained of all *waqfs*, existing or to be created hereafter, for future use. The Act provides safeguards against misleading or insufficient particulars being furnished to the court.

*The Madras Act.*—Sections 38 and 39 of the Madras Religious Endowments Act (II of 1927) similarly provide for the registration of religious endowments and for the verification of the entries made therein.

*The English Acts.*—In England, a similar provision is made by the Charitable Donations Registration Act, 1812, (52 George III, Chapter 102), and, for certain purposes, by the Places of Religious Worship Registration Act, 1855 (18 and 19 Victoria, Chapter 81).

*The Japanese Act.*—Under the Japanese Code of Civil Procedure, trusts or foundations (*Zaidan*) for purposes of worship, religion, charity, etc., and Associations (*Shadan*) are compulsorily registrable within two weeks of the day of creation. They are required to make and keep in their office an inventory of property and, in the case of Associations, a list of the members too. Omission to get registered, failure to keep the inventory and lists of members, making false entries therein, obstruction to examination by public authorities or the courts (which have such power under the law), making false statements to them or to a general meeting, and the concealing of facts are all penal.

In these provinces, temples, *maths*, *dharmashalas*, and other charitable and religious endowments, institutions and funds are scattered far and wide; and no measures can be adopted for their protection and for tracing the trust property in the hands of strangers or transferees, until a record is maintained giving full particulars about them. The Board should therefore be authorized to require such particulars to be furnished,



within such time as may be prescribed, by every public religious or charitable endowment, institution or fund, belonging to the Hindu community or any sect or section thereof, now existing or to be created hereafter, and these particulars should include, what is most essential in their case, full information about their history, constitution, management, custom, property, income and expenditure.

As observed by the Judicial Committee in *Raja Muthu Ramalinga Setupat v. Perianayagun Pillai* <sup>(\*)</sup> the constitutions and rules of religious brotherhoods attached to Hindu temples are by no means uniform in character, and it is essential to ascertain them for deciding any question relating to succession or other customary usage. It would be useful if a correct record of these customs and usages is kept by the Board.

We recommend accordingly that the Board shall maintain a record of all the endowments, institutions and funds, of both the classes mentioned above, giving the following particulars in regard to each :—

- (a) Origin;
- (b) the object of the endowment, trust, institution, fund or foundation;
- (c) the constitution of the committee of management or trustees, or the scheme of administration, if any, with the names and addresses of the *mahant*, manager, superintendent or other person or persons in charge;
- (d) the customs or usages as to the religious observances and as to the appointment, election, or succession of *mahants*, trustees or managers;
- (e) the properties, movable and immovable (including documents) attached thereto, with the approximate value thereof;
- (f) the annual expenditure, sanctioned or incurred, for
  - (i) religious or charitable purposes, and
  - (ii) the staff employed during the preceding three years;
- (g) the names of all offices connected with the endowment, institution or fund, to which any salary, emolument or perquisite is attached, and the nature, period and conditions of service in each case; and

(h) any other particulars that may be prescribed by the Board.

These particulars, together with a certified copy of the instrument of foundation, if any, should be required to be supplied by every such

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(\*) L. R. I. Indian Appeals, at page 228.



endowment, institution and fund, whether existing or created hereafter, duly signed and verified by the founder and the person or persons in charge thereof, within a period of six months after the passing of the proposed Act in the case of existing endowments, institutions and funds; and, in the case of newly created ones, within three months from the creation thereof. Failure to comply with these provisions without sufficient cause should be penalized. All changes in the constitution of the governing body should be similarly required to be notified to the Board, within a certain period, with a penalty to be charged for delay or omission. These records may be maintained district-wise. A certified copy of these particulars, in regard to any endowment, institution or fund should be declared to be admissible in evidence of the matters recorded therein.

In order to keep the aforesaid record up to date and to enable the Board to keep proper control, it is necessary that the Board should be empowered, to require the periodical submission of accounts, reports and returns in such manner as it may from time to time prescribe, from all persons in charge of endowments, institutions and funds, of both the classes mentioned above.

A person in charge of an endowment, institution or fund who wilfully neglects the submission of such accounts, reports or returns, or disobeys the directions of the Board in that behalf, or submits false accounts, reports or returns, should, by order of the Board, be liable to punishment.

102. *Protection of unprotected places.*—There are temples, *dhar-mashalas*, tanks, wells, *ghats*, and other places constructed for the public benefit, which are lying in many places in an unprotected state. Some of them are places of historical importance or specimens of exquisite art, but unfortunately the Ancient Monuments Preservation Act (VII of 1904) which provides for the protection of ancient monuments and constitutes the Collector their guardian, has not been applied to them. However, the Board should without prejudice to the Government's liabilities under the Ancient Monuments Preservation Act, be made the guardian or manager of all unprotected religious or charitable buildings and other structures not specifically in the charge of any specific body of trustees, superintendents or managers; and a tablet should be fixed at every such place, showing that it is a protected place in the charge of the Board.

103. *Protective and preventive measures and penalty for disobedience.*—It is also necessary that, in the case of endowments institutions and funds falling under class II mentioned above, the Board should have the power to adopt measures for protecting their properties against loss, wastage or alienation, and preventing the misappropriation or misapplication of their incomes, and to issue such directions therefor



and for the restoration or recovery of the endowed properties or proceeds thereof, as may be found necessary. We recommend accordingly that the Board should be given this power and persons found guilty of wilful neglect or disobedience of such orders should be liable to be punished. Such punishment may take the form of fine, and if the delinquent is a trustee, also of suspension or removal.

104. *Information to be verified by enquiry.*—For the purposes of maintaining the necessary records relating to both classes of endowments, institutions and funds and for other purposes connected with the proper management of the endowments, institutions and funds, falling under class II described above, we think it necessary and recommend accordingly, that the Board should have the power collectively, or through any of its members, or the members of any Area Committee, or its inspecting staff or any other officer or officers employed for the purpose, to enquire into their condition, working and management, and for these and other such necessary purposes, to make inspections and local enquiries, to record evidence and call for statements, affidavits and other documents that may be required, from the trustee or persons concerned in the management or administration of such endowment, institution, or fund, or having the possession or custody or control over any property, or from their agents or depositaries, or from the beneficiaries or recipients of such charities. The power to enter for the purposes of inspection or enquiry and the like would equally be needed. Such enquiry may be made *suo motu* or on the complaint of any person interested or on the report of an Area Committee.

The Charitable Trusts Act, 1853 (16 and 17 Victoria, Chapter 137) makes provision for similar enquiries by Commissioners acting personally or through Assistant Commissioners or Inspectors.

105. *Judicial and quasi-judicial matters.*—Various judicial and quasi-judicial matters will thus necessarily come up for adjudication in connection with the endowments, institutions and funds, in respect of—

- (a) the removal of trustees, hereditary and non-hereditary,
- (b) the disposal of surplus income,
- (c) the framing or altering of schemes of management,
- (d) succession to hereditary trusteeship, and
- (e) the applicability or otherwise of the proposed Act to a particular property or institution.

These being matters of varying degrees of importance and responsibility, it is desirable, in the interests of justice, to make adequate provision for them all.



106. *Board's power to deal with certain elementary matters.*—  
Comparatively elementary matters, namely, those relating to—

- (a) the removal of a *mahant*, trustee or other person in charge, if and when found guilty, or otherwise incapable of discharging his duties;
  - (b) the disposal of surplus income;
  - (c) the framing or altering of schemes of management, whether framed by a court of law or by the Board itself, when necessary; and
  - (d) succession disputes;
- can and should be dealt with by the Board.

The conferment of these powers would facilitate the administration of the trusts. In cases of ecclesiastical properties, such questions are mostly dealt with under the ecclesiastical law in England. Similar powers are exercised in respect of secular charities by the Charity Commissioners in England; and an appeal is allowed from their orders to the High Court of Chancery. We recommend accordingly, that in respect of endowments, institutions and funds falling under class II mentioned above, the Board should have *suo motu*, or on the application of any person having an interest in the trust, or on the report of an Area Committee, the power—

- (a) to enquire into any complaint of a breach of trust, neglect of duty, misfeasance, malfeasance or physical incapacity rendering the person in charge of an endowment or trust unfit for the discharge of his duty;
- (b) to direct an account to be taken from him;
- (c) to remove any *mahant*, trustee, manager, superintendent, or other person in charge found guilty or incapable of discharging his duties;
- (d) to appoint a new person to fill up a permanent vacancy and to vest the property in him; and
- (e) to settle a scheme of management for the proper administration of the trust or endowment, or to alter or cancel, when necessary, any scheme framed by itself or by a Court of Law :

Provided that an appeal within a prescribed period shall be allowed from the order of the Central Endowments Board to the Board of Arbitration constituted on the lines described elsewhere; but, subject to the result of such appeal, the order shall be final



*Existing schemes.*—The Board should have the power to modify or cancel not only a scheme of management framed by itself, but also any scheme already framed by an ordinary court under section 92 or any other such enactment. Schemes already settled by the ordinary courts under such sections will naturally continue in force unless and until, for sufficient cause, they are abrogated or altered by the Board.

*Outsiders to be excluded.*—In this connection, we need hardly point out that no committee of management should be allowed to include any person not professing the same Sampradaya to which the institution belongs.

107. *Interest defined.*—We have recommended above that any person, having an "interest" in the trust can move the Board. The question of the nature of "interest" entitling one to take action against an endowment is not free from difficulty. Section 14 of Act XX of 1863 provides that any person having an "interest" in the temple or other religious establishment can sue in cases of breach of trust, and the next following section lays down, that "the interest required in order to enable a person to sue under the last preceding section is not to be a pecuniary, or a direct or immediate interest, or such an interest as would entitle the person suing to take any part in the management or superintendence of the trust. Any person having a right of attendance, or having been in the habit of attending at the performance of the worship or service of any mosque, temple or religious establishment, or of partaking in the benefit of any distribution of alms, shall be deemed to be a person interested within the meaning of the last preceding section."

Section 539 of the Civil Procedure Code of 1877 limited the class of persons who could sue under it by insisting on a "direct interest"—an expression which was repeated in the Code of 1882. It seems to have been taken from an English case <sup>(10)</sup>. This led to considerable conflict of decisions in the High Courts, some holding that worshippers had no "direct interest" <sup>(11)</sup>, and others that they had <sup>(12)</sup>. It must have appeared to the legislature that the limitation of a "direct interest" was not expedient in India <sup>(13)</sup>; consequently section 44 of Act VII, of 1888 substituted "an interest" for "a direct interest" in section 539 of the Civil Procedure Code, 1882, with the result that the class of persons entitled to sue has been widened <sup>(14)</sup>. While some High Courts have given a wide interpretation to "interest" <sup>(15)</sup>; others have held that it must

<sup>(10)</sup> Lord Eldon's judgment, *In re the Bedford Charity* (1819), 2 Swans 518.

<sup>(11)</sup> 8 Cal. 92, 11 Cal. 33, 12 Mad. 157.

<sup>(12)</sup> 7 All. 178 F. B., 12 Bom., 247, 15 Bom., 612 (623).

<sup>(13)</sup> 51 Indian Appeals, 282.

<sup>(14)</sup> 2 Cal. L. J. 460 (470).

<sup>(15)</sup> 24 Cal. 419, 2 Cal. L. J. 460 15 Bom. 612 (622-623).



be existing, not contingent and substantial, nor remote (<sup>1a</sup>). We do not at all wish to restrict the nature of "interest", nor do we think it proper to leave this expression undefined. We find that section 15 of Act XX of 1863 has not operated as a hardship on trustees. We, therefore, recommend that the word "interest" should for the purposes of the proposed Act and the existing law relating to the properties and institutions we are dealing with, be defined in the terms of the said section.

108. *Suspension, removal and appointment of trustees, and framing of schemes.*—The Board will serve little purpose, if it is not empowered to take action in cases of breach of trust or neglect of duty by a *mahant* or trustee of an endowment, institution or fund of class II, or his incapacity to discharge his duties. In such cases, the Board should have the power to fine, suspend or remove the *mahant* or trustee concerned; appoint a new *mahant* or trustee in his place and vest the property in him. The Board may also frame a scheme for the proper administration of any public endowment, institution or fund of class II, and adopt measures necessary for the protection, preservation or recovery of the property thereof. A trustee of every religious or charitable endowment, institution or fund, is bound to administer its affairs honestly and to apply its funds and properties in accordance with the terms of the trust and the usages thereof; and, if he fails to do so his removal would obviously be needed, in the interests of the trust; and unless the Board is armed with the power to suspend or remove him, if necessary, the purpose of the trust would be liable to be defeated. Litigation in the ordinary courts is an expensive and dilatory remedy. It has, owing to the trouble involved and the reluctance of people to undertake individual responsibility, hitherto proved ineffective to stop mismanagement, except in the most flagrant cases. Unless the Board is empowered to enquire into cases of mismanagement and to fill up vacancies by appointing new trustees and vesting the property in them, the appointment of a Central Endowments Board to act merely as a Census Officer and to receive annual accounts, would be an expensive measure with little corresponding advantage. A new *mahant*, trustee or manager can, in many cases, be appointed in accordance with the usage of the trust or the directions, if any, given by the founder; and no object can be served by requiring the Board to resort in each case to regular courts to have the defaulting trustee or manager removed and the vacancy filled up. The incessant delay and expense involved in such procedure from an insuperable objection to any such proposal being acceptable.

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(<sup>1a</sup>) 20 Cal. 810, 42 Mad. 360, 47 Mad. 884.



109. *Removal of hereditary trustees.*—Section 53 of the Madras Hindu Religious Endowments Act (II of 1927) makes some distinction between the hereditary and non-hereditary trustees, and authorizes the Temple Committee to remove or suspend any trustee for persistent default in the submission of the budgets, accounts, reports or returns, or for wilful disobedience of lawful orders issued by the Board, the Committee, or the President of such Board or Committee, or for malfeasance or misfeasance or breach of trust, or neglect of duty, or any misappropriation of, or improper dealing with, the properties of the trust, or for unsoundness of mind or other physical infirmity, rendering him unfit for the discharge of his duties. It allows an appeal from the Temple Committee to the Board and provides that a hereditary trustee may, in lieu of appealing to the Board, apply to the Court to modify or cancel the order of the Committee.

It does not seem desirable to us that the powers of removal of hereditary trustees should be vested in the Area Committees. They should report to the Board, which should be responsible for enquiring into the allegations made and taking suitable action thereon. Any proposal to allow such cases to go before the ordinary courts will necessarily mean a negation of the principles underlying this report and the formation of the proposed Endowments Board. Pandit Madan Mohan Malaviya has expressed the opinion that the Central Board must have the power to remove and dismiss *mahants* found guilty of mismanagement or misconduct; and most of the other orthodox witnesses examined have similarly stated that the power to remove and appoint *mahants* was necessary, in order to obviate the trouble and expense of litigation and the consequent delay in stopping the evil. A claim to a right of management by heredity can only succeed, if the founder has laid down such a rule of succession, or where such a right is recognized by the usage of the *math* or institution concerned. Hereditary succession affords no guarantee of fitness for the exercise of the office and has been responsible for numerous cases of mismanagement and waste of these endowments, institutions and funds. In a recent case, their Lordships of the Privy Council have pointed out that the courts have always a very large discretion to vary any rule of management laid down by the founder, which they may find either not practicable or not in the best interests of the institution. The trustee exists for the trust and not the trust for the trustee; and the Board should always have the power to remove the trustee in the interests of the trust or to secure better management. The grounds of removal would vary in different cases and would include, for instance, a failure to keep accounts, misapplication of funds, improper alienation of endowed property, physical



infirmity, unsoundness of mind, wilful default and continued dissensions among the trustees. In these cases, too, an appeal should be allowed to the hereinafter described Board of Arbitration.

110. *Ad interim administration.*—Some provision will also be required to be made for the *ad interim* administration of an endowment, institution or fund, falling under class II, where such a necessity arises. Following section 58 of the Madras Religious Endowments Act (II of 1927), we recommend that, where a vacancy occurs in the office of the *mahant*, trustee or manager of a religious or charitable endowment, institution or fund, falling under class II, which cannot be immediately filled up, or where the person entitled to succeed is a minor and has no legally constituted guardian fit and willing to act as such, or where there is a dispute as regards the person entitled to act as such guardian, or when a *mahant* or trustee is by reason of unsoundness of mind or other physical infirmity unable to discharge his duties, or where a dispute regarding the succession necessitates such action, the Board may be empowered to appoint a receiver to take charge of the administration until some one is duly appointed to the office, or the disability of the person concerned ceases to exist. When the Board is invested with plenary powers for the protection of endowed property this power is only ancillary to them.

111. *Alienation without sanction void.*—One of the essential conditions attaching to every religious and charitable endowment, institution and fund, is that no trustee or person in charge thereof has any power to alienate its property except for necessary purposes connected with it. But whether an alienation has been made for necessary purposes connected with the trust or for personal purposes, is always a question of some difficulty. It often leads to much litigation. This can be prevented if, as in the case of the property of minors, the previous sanction of some authority is required to be taken before the transfer is made. The Board is the proper authority to determine whether the interest of the endowment, institution or fund will be served by the transfer of any portion of its property or fund by way of sale, mortgage, exchange or otherwise. Such previous sanction will not only protect the interests of the endowment but also afford security of title to the alienee and prevent litigation which has ruined many an endowment. Section 8 of the Bombay Act, II of 1863, provided that lands held by religious or charitable institutions, wholly or partially exempt from the payment of land revenue, shall not be transferable from such institutions by sale, gift, devise or otherwise. But Act XX of 1863 contains no such provision. Section 76 of the Madras Religious Endowments Act (II of 1927) forbids even a lease of any immovable property belonging



to any temple or *math*, for a term exceeding five years, without the sanction of the Board or the Temple Committee concerned; and it further provides that, where the Board or the Temple Committee concerned grants or refuses to grant sanction for an exchange, sale or mortgage or a lease for a term exceeding five years, the trustee of the *math* or temple, or any person having interest in the trust may, within one year of the date of the order of the Board or Committee, apply to the Board for modifying or cancelling such order. We do not consider that Area Committees should be allowed to sanction an alienation of immovable property, or that the orders passed by the Board should be allowed to be contested in the civil courts. The Area Committee may, in suitable cases, make a recommendation to the Board; and the order of the Board, granting or refusing the sanction in such cases, should be final.

*Practice in England.*—In England, section 29 of the Charitable Trusts Act, 1855 (18 and 19 Victoria, Chapter 124), gives to the Charity Commissioners control over the dealings with the corpus of charities falling within their jurisdiction, by forbidding the trustees from making any sale or mortgage or long lease thereof, without the approval of the Board or the sanction of a competent court, or according to a scheme legally established; and this rule applies even where the power to sell, mortgage or lease beyond the aforesaid limits is given in the original deed of trust. The Commissioners have also been given authority to purchase land where necessary, for the benefit of a charity. They have also the power to give directions for the investment of the surplus money or property received in consideration or by way of an exchange. Similar powers should be given to the Board here. A clear provision should therefore be made that no trustee or superintendent, manager, *mahant* or other person or persons in charge of any public religious or charitable endowment, institution or fund, shall have any power to transfer the property, funds or income appertaining to it, by sale, mortgage, exchange or otherwise, or to grant lease thereof for a term exceeding five years, except with the previous sanction of the Board; and any such transfer, exchange, sale, mortgage or a lease for a period in excess of five years, made in contravention thereof, shall be regarded as invalid and inoperative.

112. *Alienations in execution of money decrees.*—Whatever rights a *mahant*, trustee or manager may possess in the property of the endowment, institution or fund in his charge, they enure only for his life; he cannot make a valid transfer of them. Sales in execution of decrees have ruined many institutions, although a sale by court cannot convey greater rights than the judgment-debtor possesses. An estate settled



under the Oudh Estates Act, II of 1900, cannot be alienated in execution of a decree <sup>(17)</sup>. Such estates are settled for the benefit of particular families. The properties we are dealing with are perpetual trusts for the public benefit and as such need similar, if not greater, protection. In Madras this protection is afforded by sections 48 and 68 of the Madras Hindu Religious Endowments Act, II of 1927. We therefore recommend that a provision should be made for the recovery of decree-money from the income (but not the funds) of the endowment, institution or fund concerned.

113. *Transfer of turns of worship.*—In many instances, turns of worship or a right to the priestly office or its emoluments, have been sold or mortgaged to persons outside the priestly body or unconnected with the temple; and instances have been brought to our notice where such transfers have been effected in favour of persons belonging to other religious persuasions or even to non-Hindus! Such a transfer is inconsistent with the purposes for which the priestly office was created and wounds the religious susceptibilities of the votaries visiting the temple or religious institutions concerned, for worship. We therefore recommend that, except as between co-sharers in that office, belonging to the same Sampradaya or religious persuasion as the temple or religious endowment, institution or fund concerned, no transfer of a turn of worship, of a right to a priestly office or its emoluments should, in any circumstances, be recognized or regarded as valid or operative.

114. *Cypres application.*—It will, at the same time, be necessary to empower the Board to deal, according to the *cypres* doctrine, with the application of the trust property, when the particular purpose or mode of execution of the endowment has not been clearly defined, or has failed or has become incapable of execution, or where an unprovided for surplus exists. A similar provision is made by section 67 of the Madras Religious Endowments Act (II of 1927). Where a clear intention is expressed, it is a well recognized principle of law that it will not be permitted to fail, if the mode specified cannot be executed; but the law will substitute another mode *cypres*, that is, as near as possible to the mode specified by the donor.

In England, no trustee of a charity is permitted to apply trust funds *cypres* on his own authority, without the direction of the Court or of the Charity Commissioners; and it is proposed to give the Board similar authority to issue necessary directions. It sometimes happens that a particular purpose fails initially or subsequently, or the machinery for effectuating the charitable intention fails, or a surplus remains after satisfying the objects specified. Where there is a gift for a charity

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(17) Sections 15 and 19 of the Act.



which has never existed or cannot be identified, even a small indication of the testator's intention has been treated in England as sufficient to show that the purpose represented by the particular class of charity was intended in a certain case and not the particular charity named. In the case of religious charities, the doctrine will have to be applied with some care; and gifts intended for a particular sect or sub-sect, or for a particular locality should not be diverted to another sect or locality.

We accordingly recommend that the Board should also have similar powers.

115. *Expenditure on improvements or investments.*—It must not, however, be inferred that the trustees shall have no power to apply any surplus funds for the necessary improvement of the trust property, or to adopt measures to promote the health or convenience of the worshippers or pilgrims visiting the institution. The improvement of sanitation, the construction of rest houses, the maintenance of approach roads, and provision for reading rooms, libraries and dispensaries, and for light, water and other conveniences, are always within the scope of their authority. Such improvements are absolutely necessary especially at places where periodical festivals are celebrated at certain times of the year on a large scale, attracting pilgrims and visitors from all parts of the country, particularly at places like Muttra, Brindaban, Ayodhya and Benares. Section 66 of the Madras Religious Endowments Act (II of 1927) gives such authority. A provision should therefore be made that the trustees of every *math*, *asthan*, temple or other religious or charitable endowment, institution or fund may, out of the funds of the endowments in their charge, after satisfying adequately the purposes of the endowment, incur expenditure on arrangements for securing the health, safety or convenience of the pilgrims or worshippers visiting the institution, and the making of such improvements as the conditions or circumstances of such institution may require; and they shall also be entitled to invest such surplus funds in approved securities or in the purchase of any property or land, for the benefit of the institution.

116. *Endowments, public or private.*—We have dealt thus far with comparatively easier and lighter matters. We now proceed to consider the procedure to be adopted in respect of the weightiest and most responsible judicial question of all, namely, in respect of disputes relating to the applicability or otherwise of the proposed legislation to a particular endowment, institution or fund.

*Powers of the Board of Arbitration.*—Questions will frequently be raised as to whether a trust is of a public or private nature, and whether it falls within the jurisdiction of the Board or not. Private trusts



concern only families which consist of determinate individuals and exist only for their private benefit, convenience or support. Public trusts exist for the benefit of the general public, or of some considerable portion of it answering a particular description. In private trusts, the beneficial interest is vested absolutely in a family consisting of individuals, who are, or may be, definitely ascertained. Such a trust can be put an end to by the consensus of opinion of the family. In a public trust, on the other hand, the beneficiaries are the members of an uncertain, indefinite and fluctuating body, but the trust itself is of a permanent character and can never be ended. The determination of the question would invariably require the examination of the origin, history and usages of the trust and of the documents of title appertaining thereto. Where property is expressly dedicated to religious or charitable (including educational) uses, for the benefit of an indeterminate body of persons, or where the public are freely allowed to worship or otherwise benefit thereby as a matter of right, without the permission of the head or manager of the institution, the irresistible inference would be that the institution is intended for the public benefit. The images worshipped by the Hindus are visible symbols representing some form of the attributes of God, who is believed to be one and Indivisible, and the object of worship is, in reality, not the visible material image, but the deity believed to be represented by it; and the removal or destruction of the image cannot alter the nature of the endowment<sup>(18)</sup>. Strictly speaking, all property dedicated to God; even where it is set apart for the worship of a particular family deity by the members of that family, is a public endowment; the owner being God, and not the family, but according to current Hindu Law as interpreted by courts, such trusts are regarded as private, and the family has the legal right by consensus of opinion to put an end to it, alienate the property or apply it to any purpose other than the ones originally specified.

Where any question arises as to whether any religious or charitable endowment, institution or fund is one to which the proposed Act does or does not apply, i.e., is or is not within the jurisdiction of the Board, the Board should obviously not have the power to decide such a question. We therefore recommend that such disputes shall go before an *ad hoc* Board of Arbitration constituted as described elsewhere.

*Appeals from the decisions of the Central Endowments Board.*—Further we have provided appeals from decisions of the Board in cases of succession, removal and appointment of hereditary trustees. In our

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(18) *Bijoy Chand v Kalipada*, I. L. R., 41 Cal., 57.



opinion, these should also be referred for adjudication, by the Central Endowments Board, to an *Ad Hoc* Board of Arbitration. This provision should, however, be subject to the proviso that whenever questions involving Dharmic Vyavasthas arise, i.e. in matters which are purely of a religious or Sampradayik character, the Board of Arbitration shall not interfere.

117. *Option to go to court.*—It is sometimes possible, though not likely, that cases may arise in which the Board may consider it expedient or desirable to institute or sanction the institution of, suits in the ordinary courts of law for obtaining all or any of the reliefs mentioned in section 92, Civil Procedure Code. We recommend accordingly that, notwithstanding anything herein contained, or provided by sections 92 and 93 and Order I, Rule 8 of the Code of Civil Procedure, the Board may, where it thinks fit, institute or sanction the institution of, a suit in the ordinary courts of law for obtaining all or any of the reliefs mentioned in section 92, Civil Procedure Code.

118. *Exclusive jurisdiction of the Board in other cases.*—Thus, unless a case is referred to the ordinary courts by the Board itself, the latter should have exclusive jurisdiction to try all cases relating to Hindu public religious and charitable endowments, institutions and funds in the province, in respect of matters referred to in these recommendations (including cases falling under Act XX of 1863, section 92, Civil Procedure Code and Act XIV of 1920). In making this recommendation, we are merely recommending the introduction of the system actually in force in England itself.

119. *Execution of decrees and orders.*—The decisions of the Central Board and the Board of Arbitration will, having as they are sure to have, the support of the Sampradayik public opinion, command the confidence of the persons concerned. We do not expect that there will be very many cases, where their decrees and orders will not be gladly submitted to and their execution will be necessary. For this reason, as well as on grounds of economy, we do not propose that these bodies should keep an execution establishment. We, however, recommend that where necessary such decrees and orders should, on the production of a certified copy thereof and of certificate of non-satisfaction, be executed by the Civil Court, as if they were its own decrees and orders.

120. *Safeguards desired.*—It has been urged before us that adequate safeguards should be provided to prevent the diversion by the Board, or its subsidiary bodies, of the income, property or surplus funds of any public religious or charitable endowment, institution or fund, to any purpose unconnected with it, or inconsistent with the object for



which it was established, and to exclude all possibility of interference in religious matters.

*Diversion of surplus funds.*—Apprehensions have been expressed, on behalf of those who took umbrage at the appointment of this Committee, that the object of providing supervision for the religious endowments, institutions and funds and obtaining their annual accounts, is to obtain a hold on the surplus funds, which some of them have been able to save by their good management. Nothing, however, is really farther from the intention of those responsible for the constitution of this Committee, or of its members, than to allow the diversion of the funds of any religious or charitable endowment, institution or fund, from the objects for which it was founded. The Committee is, on the other hand, anxious to devise measures to ensure the proper application of the funds solely to the purpose for which the endowment exists and preventing their diversion, misapplication or misappropriation, while at the same time, leaving the managing body reasonable discretion and latitude to apply the surplus, if any, to the acquisition of property for the benefit of the trust or to the improvement of the institution, or the promotion of benevolent purposes, educational, charitable or religious, connected with it. It was proposed by some responsible personages including men like Pandit Madan Mohan Malaviya and Mahamahopadhyaya Dr. Ganga Nath Jha, that the surplus should be allowed to be utilized for educational purposes, particularly education in the Sanskrit language, for which the spacious accommodation available in some of the temple buildings is amply fitted, and that the Bhog offerings, now largely distributed to idlers, can also be thus utilized. The study of the Sanskrit language unquestionably forms the basis on which Hindu religious education must rest; and, as the Agni Puran says, any arrangements made for the advancement of learning or the study of the Vedas Smritis, in the temples, will be productive of the highest religious merit. The temples and *maths* used to attract endowments and gifts when, and because, they were centres of religious learning, devotion and piety; and they would attract such gifts and charity again if, and when, they become centres for the dissemination of religious education and thought. We hope that every endowment, institution or fund will try to follow this ideal and, while free to carry out its internal management in accordance with the directions laid down and within the limits prescribed by the instrument of foundation, deal with the surplus, if any, in the manner best calculated to advance the interests of the endowment, institution or fund, consistently with the wishes of the founders.



*Interference with religious rites.*—It is also necessary that no interference should be permitted with the religious worship, ceremony or observance, practice, usage or instruction, established and carried on in any endowment, institution or fund, according to or consistently with the directions of the authors of the trust or the Shastras. Section 79 of the Madras Religious Endowments Act (II of 1927) gives similar protection to the long-established customs and usages of every temple. We recommend accordingly that alike in the interests of the public and of the endowments, institutions and funds, the Board and its subsidiary bodies shall have no power—

- (a) to divert the income, property or surplus funds of any Hindu public religious or charitable endowment, institution or fund to any purpose unconnected with it, or inconsistent with the intentions of the founder, or
- (b) to interfere with the religious worship, ceremony or observances, usage, practice or instruction conducted thereat in accordance with the directions of the founders, or consistently with the Shastras.

121. *The Board vis-a-vis Denominational Committees.*—We now pass on to the relationship which should subsist between the Board and the Denominational Committees. We hold that these committees should be the channels through which the Board should function. Each such committee should therefore exercise the Board's powers in relation to its own Sampradaya, in respect of making enquiries, the removal or appointment of trustees, the framing of schemes of management, the application of the *cypres* doctrine, the sanctioning of transfers of property and priestly rights and emoluments, the trial of disputes as to succession to hereditary trustees and the adoption of preventive and protective measures. It should also hear appeals from appealable orders passed by the Area Denominational Committees of its own Sampradaya. It should also have the power to co-opt, if and when necessary, not more than two members (not necessarily of the same Sampradaya or members of the Board) to assist them in the proper discharge of their duties.

122. *Experts to be co-opted in certain cases.*—Where in an enquiry to be made by a Denominational Committee regarding the existence, nature or extent of the endowment or trust, or any alleged breach of trust, misconduct, malfeasance, misfeasance, neglect of duty or physical incapacity of any *mahant*, trustee, superintendent or manager, or other person or persons in charge of any endowment, institution or fund of a particular sub-sect of that Sampradaya, questions relating to the



doctrines and modes of worship of that sub-sect are involved, it would be necessary for the committee, in the interests of justice, to associate with itself some persons belonging to and possessing special knowledge about that particular sub-sect to which the institution under enquiry belongs. In all such cases it would suffice for all practical purposes if in every enquiry of the nature referred to a panel of suitable men of each sect or sub-sect be obtained, and two persons of the sub-sect in question be co-opted to work with the Denominational Committee concerned. Their views on internal matters of doctrine and mode of worship of the particular sub-sect will be of greater value in adjudicating on the questions at issue, than the views of any common representative elected to represent the whole Sampradaya. The opinions of the representatives so co-opted in connection with such enquiry shall not merely form part of the record, but shall also be entitled to the utmost consideration in arriving at a just conclusion on the matters at issue. We therefore recommend that in such cases authority to co-opt not more than two experts be given.

123. *Powers and functions of Area Committees.*—Each Area Committee should work in its own local area, on the same general lines as have been laid down for the Board; and each Area Denominational Committee should likewise function in respect of Sampradayik matters in that area. We think it desirable that each Area Denominational Committee too should (like the Central Denominational Committees) have the power to co-opt not more than two members (not necessarily of the same Sampradaya or members of the Area Committee) to help them in the proper discharge of their duties.

124. *Joint sitting of Denominational Committees.*—We think it necessary to provide that matters affecting more than one Sampradaya should be dealt with in a joint sitting of the Denominational Committees concerned, or by the Board or the Area Endowments Committee itself.

125. *Powers and functions of Joint Committee.*—The Joint Committee shall, as we have already said, deal with matters relating to charitable and other institutions not belonging to any particular Sampradaya, in respect of powers and functions exercised by the Board through the Denominational Committees.

126. *Powers and functions of the President.*—The President of the Board shall exercise the powers of the Registrar of Hindu Endowments to be hereinafter specified, appoint receivers, appoint, punish or remove any servant of the Board in accordance with the rules framed therefor, and carry out such other duties as the Board may from time to time entrust to him.



127. *Power of suspension and removal of a member.*—In certain circumstances the suspension or removal of a member of the Board may unfortunately become necessary before the prescribed term. Cases of criminal convictions involving moral turpitude, insanity, insolvency, corruption, misconduct and other such causes are instances in point; but, considering the process of ultra-careful filtration by which the best possible representatives of each Sampradaya are to be returned to the Board, and the consequent unlikelihood of such a contingency, under normal circumstances, we hold that, in such contingencies justifying the suspension or removal of a member, his peers alone can have the power to adjudicate thereon and pass orders of the kind contemplated. We therefore recommend that the Board alone shall have the power to suspend or remove any member from membership, in case of serious misconduct, corruption, or other sufficient cause, as may be decided by the votes of at least a three-fourth majority of his peers, recorded in person or in writing. Under similar circumstances a member of an Area Committee may on the recommendation of the Committee concerned be removed or suspended by the Board.

128. *Officers and servants.*—The Board should be empowered to determine, from time to time, the number, designation, grade and scales of salaries or other remuneration of the officers and servants to be appointed to the Board, and to each committee, and fix the travelling or other allowances payable to them. The Board should also have the power to appoint such officers and servants for the Board and committees respectively, and to punish or remove them for unfitness, neglect of duty, misconduct or other sufficient cause, and exercise such other powers in respect of them as may be necessary.

129. *Meetings of the Board.*—We consider that the normal work of the Board as such should be the consideration and adoption of its budget, the laying down of general policy, the framing of rules and regulations for the guidance of itself and its subsidiary bodies and the conduct of its affairs and theirs, the disposal of intra-Sampradayik matters, the reviewing of the work of all committees (including the Area Committees) and consideration of other matters of general interest. For these normal purposes the Board should meet at least twice a year with provision to meet at other times, too, whenever necessary.

130. *Local and temple committees.*—The constitution of local or temple committees may be found desirable in many places for supervising the management of religious and charitable endowments, institutions and funds, or carrying on the administration thereof, where there may be no committees already in existence. The few committees appointed in these provinces under section 7 of Act XX of 1863 remained dormant



and did little work and have ceased to exist. The necessity for constituting temple committees is recognized by section 20 of the Madras Religious Endowments (Act II of 1927); and similar temple or local committees may be needed here. We recommend accordingly that the Board be empowered to arrange for the constitution of local and temple committees for any class or classes of endowments, institutions and funds in any locality.

131. *Their constitution, strength and functions.*—In some places the temple committees may have only to take accounts or supervise the management carried on by the persons already in lawful charge; but in other places, where no such persons may be in charge, they may have to undertake the management themselves. It would be satisfactory and consistent with considerations of justice and also with popular sentiment that an institution belonging to any Sampradaya should be in charge of persons belonging to that very Sampradaya, and that outside control in the internal management should be excluded. If local Sampradayik organizations are in existence and willing to look after the institutions, it would be open to the Board to utilize them, if otherwise suitable. The strength of each committee should not in any case be too large to make it unworkable.

We recommend accordingly that the local and temple committees shall consist of persons professing the Hindu religion and that, in the case of temple committees, they shall be persons belonging to the same Sampradaya or religious sect as the one to which the institution belongs. They shall work under the control of the Board, which shall assign the functions to be exercised by them.

132. *Local executive and autonomy.*—It would be necessary at the same time to authorize the local and temple committees to elect their own executive and, subject to the control of the Board, the committees should have their own autonomy clearly defined.

133. *Interference by Executive Government excluded.*—From what has been said it automatically follows that, save as above provided, the Government and its officers, as such, should have no concern with the administration, management or superintendence of any *math*, temple or other religious or charitable endowment, institution or fund. It would be useful and expedient to give an assurance to this effect. The policy of Act XX of 1863 in this respect still stands and ought to continue. Section 80 of the Madras Religious Endowments Act (II of 1927) contains a similar provision. We therefore recommend that, save as above provided, it shall not be lawful for the Government or for any officer



thereof, in his official capacity, to undertake or assume the superintendence of any land or other property, granted for the support of, or otherwise belonging to, any *math*, temple or other religious or charitable endowment, institution or fund, or take any part in the management or appropriation of any endowment made for its maintenance, or in the appointment of trustees, or be otherwise concerned therewith.

134. *Rules and regulations.*—As soon as possible after the registration of public religious and charitable endowments, institutions and funds is completed, the necessary rules and regulations should be framed for the election of the members of the bodies we have recommended, the qualifications of the voters, the preparation of electoral rolls and the mode of elections. This is a matter to which we shall revert in the last chapter of this report.

135. *Nomenclature to be adopted.*—Before we pass on to the next chapter we should like to emphasize the necessity of adopting, in the proposed Act, Sanskrit nomenclature for the bodies we have recommended. We ourselves have refrained from using indigenous terms in the body of the report, in order that those who draft the proposed Act may not be confused by the names not familiar to them. The organization proposed is a religious one; it is based on ancient traditions, and has a halo of sanctity, which is the most powerful sanction behind it. The adoption of English nomenclature will make it appear exotic and deprive it of the Shastric authority they are clothed with and which is essential for their proper working. We have adopted names that were used in ancient India; some of them are mentioned even in the Vedas. In choosing these names we have avoided words lost in the mist of antiquity and have adopted only those that have survived either up to our own days, or till comparatively recent times, and are intelligible to the people concerned. In order to avoid confusion we have distinguished the central from the local body not by these prefixes (as in English) but also by a separate name-ending. Central bodies with similar functions have the same name-ending. The same is the case with local bodies. This will make reference easier. It may be noticed in passing that the use of indigenous terms is not a startling innovation; all the Indian States, whose laws on endowments we have perused, have used indigenous nomenclature. We recommend the following names:—

*In the case of Central Organizations.*

For the Central Endowments Board—Kendriya Dharma Sangha.

For its President—Sanghadhyaksha.



For the Central Denominational Committee—Kendriya Sampradayik Samiti.

For the Central (Joint) Committee—Kendriya Sanyukta Samiti.

For the Board of Arbitration—Nyaya Parishad.

*In the case of Area Organizations.*

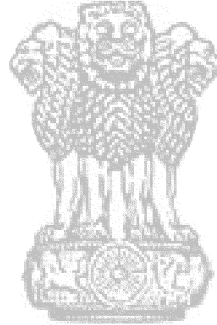
For the Area Endowments Committee—Sthaniya Dharma Sabha.

For its President—Sabhapati.

For the Area Denominational Committee—Sthaniya Sampradayik Goshthi.

For the Area (Joint) Committee—Sthaniya Sanyukta Goshthi.

For all Hindu public religious and charitable endowments, institutions and funds as a class—Dharmadaya.



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## CHAPTER VI.

## SUBSIDIARY PROPOSALS.

136. *Subsidiary matters.*—The creation of the Central Endowments Board, with the powers and functions proposed, will not, however, suffice to secure full protection for all the endowments, institutions and funds in question. There are certain subsidiary matters, a consideration of which is equally important, for saving their property from wastage and spoliation.

137. *Amendment of Act XXI of 1860.*—We have already referred to the facility with which any seven persons in charge of a public endowment, institution, fund or trust property held for public purposes can register themselves into a society and thereby save themselves from all statutory obligation to maintain regular accounts, and from all personal responsibility for any loss that may be incurred in the course of management. The Societies' Registration Act (XXI of 1860) requires the persons applying for registration to submit a Memorandum of Association showing the names, addresses and occupations of the persons forming the governing body, to whom by the rules of the society the management of its affairs is to be entrusted. They are not required to specify the capital fund or property at their disposal, or the resources from which the objects of the society are to be carried out. There is no statutory obligation, on the members of the society or of the governing body, to maintain regular accounts, to get them audited, to send the annual balance-sheet to the Registrar of Joint Stock Companies or to any other public officer, or to publish the same every year. They are merely required to send annually a list of the members of the governing body showing their names, occupations and addresses; but no penalty is provided for non-compliance. The members are empowered, under certain conditions, to dissolve a society or to alter, extend or abridge the purpose for which it was founded, so long as the amended purpose falls within the purview of the Act, even so as to divert to other purposes the funds or property originally intended for a specific charitable purpose, whether or not allied to it. The charitable object of the original contributors to its funds is thus liable to be frustrated. Further, the Act provides no control and is vague and indefinite in many particulars.

We are not, however, concerned with the defects of that Act, except in so far as they affect those societies registered under it which fall



within the purview of the Board. Such societies should be required to submit an annual report of their work with an audited statement of their accounts and to report to the Board every change in their constitution, objects or the members of their governing body. At the same time the members of the societies should not be permitted to elude responsibility for their acts; and, for this purpose, every such society should be required to maintain a register of the movable property belonging thereto and a register of its members, to keep a regular account of its income and expenditure and to maintain a record of its proceedings. Section 5 of the Charitable Trusts Incorporation Act, 1872 (35 and 36 Victoria, Cap. 24), lays down that, after a certificate of incorporation has been granted, all trustees of the charity, notwithstanding their incorporation, shall be chargeable for such property and accountable for their own acts, receipts, neglects and defaults, and for the due administration of the charity and its property, in the same manner and to the same extent as if no such incorporation had been effected. There is no reason why a similar provision should not be enacted here. We recommend accordingly that the Societies' Registration Act (XXI of 1860) be so amended as to—

(1) confer on the President of the Board the powers exercised under the Act by the Registrar of Joint Stock Companies, whose powers in respect of the institutions we are dealing with shall cease;

(Note.—Such Hindu public religious and charitable endowments, institutions and funds as are already registered under the Societies' Registration Act (XXI of 1860) shall also be required to get themselves registered by the Resident of the Board, but without payment of any fees).

(2) require every such endowment, institution and fund falling within the jurisdiction of the Board—

- (a) to get itself registered by the President of the Board,
- (b) to keep a regular account of its income and expenditure,
- (c) to maintain a register of its proceedings,
- (d) to maintain a register of its members,
- (e) to maintain a register of its movable and immovable property,
- (f) to submit an annual report of its work with an audited statement of its accounts to the Board, and
- (g) to report to the Board every change in its constitution, objects or the members of its governing body;

(3) declare that the trustees and members of the governing body shall, individually and collectively, be chargeable by law for such property as shall come into their hands, and answerable and accountable



for their respective acts, receipts, neglects or defaults, and for the due administration of the charity and its property, in the same manner and to the same extent as if no such incorporation had been effected.

138. *Amendment of section 22, Act XX of 1863.*—When the Court of Directors directed the Government in India to withdraw its connection from the management of religious endowments, and the Religious Endowments Act (XX of 1863) was subsequently enacted to provide for the formation of Temple Committees to take over the management from the Board of Revenue, it was provided therein that it was not lawful for any Government in India or any officer of any Government, in his official character, to undertake or resume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any mosque, temple, or other religious establishment, or to take any part in the management or appropriation of any endowment made for the maintenance of any such mosque, temple or other establishment, or to nominate or appoint any trustee, manager or superintendent thereof, or to be in any way concerned therewith. It is not now proposed to go back to the old system under which the Government held the direct management or superintendence of the property of religious endowments, institutions and funds. There is a general consensus of opinion that the Government should have no hand or control in their management, and we agree with this view. It may be necessary for the Board, all the same, to utilize at times the services of officers of the Government on loan, as is being done by the District and Municipal Boards. The existing legal embargo on the employment of such officers, imposed by section 22 of Act XX of 1863, should therefore be removed.

139. *Amendment of District and Municipal Boards Acts.*—Section 91, clause (e) of the United Provinces District Boards Act empowers the District Boards to make provision for the management of any public or private charity or trust placed by the order or with the consent of the Local Government under the Board; and section 147 of the same Act declares that all tanks and adjacent lands, buildings, materials and things connected therewith, or appertaining thereto, within the rural area of the district, not being private property, and not being maintained or controlled by the Government or by any local authority other than the Board, shall vest in and belong to the Board. A similar provision is contained in section 116, clause (b) of the United Provinces Municipalities Act (II of 1916). It may be that some charitable works or properties, situated in the rural or municipal areas, which should legitimately be under the control of the Board, may be claimed by the Municipal or District Boards.



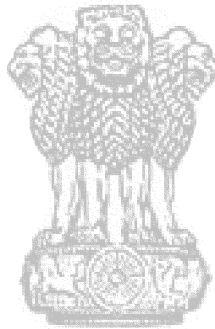
We, therefore, recommend that the possibility of such conflict should be obviated by a clear classification of such works and properties according to the authority which should control them. Section 147 of the United Provinces District Boards Act (X of 1922) and section 116 of the United Provinces Municipalities Act (II of 1916) should accordingly be amended.

140. *Amendment of the Land Acquisition Act.*—It has been brought to our notice that, in some places, the land adjacent to a temple or other institution has been disposed of by the *mahant* or trustee, and the transferee has been in possession sufficiently long to prevent an action being taken against him in ejectment. We also find that, in some places, the acquisition of some land adjacent to a temple or a place of worship, where periodical fairs are held, would enable the surroundings or the sanitation of the locality to be improved, thereby promoting the convenience of the pilgrims attending for purposes of worship. The Vishwanath temple at Benares, the Vindhyavasini temple at Vindhyachal and many other temples are situated in congested localities; and on occasions of fairs the approach road and the entrance leading to the temple become so crowded that it is not possible to provide alternative routes, or to leave sufficient open spaces for the comfort of the pilgrims; and the persons in charge cannot always by private negotiations acquire land for making the necessary improvements. In such cases the acquisition of the adjacent area for improving the sanitation or convenience of the pilgrims cannot but be regarded as a public purpose; and the Board should therefore be empowered to move the Land Acquisition Officer to acquire the same at the expense of the endowment or institution concerned. We would point out that the benefit of the Land Acquisition Act has already been extended to the Improvement Trusts by section 56 of the United Provinces Act (II of 1914), to the Municipal Boards by section 117 of the United Provinces Act (II of 1916), and by section 150 of the United Provinces Act (X of 1922) to the District Boards.

It has been suggested that, where (as has often happened in the Eastern districts) a turn of worship, or a right to the priestly office or its emoluments, has been sold or has passed to third persons belonging to another faith or Sampradaya, similar right to acquire the same, on payment of the purchase money, should be conferred on the Board. We realize the force of this suggestion and accordingly recommend that provision be also made for the re-acquisition, on payment of adequate compensation, of such transferred rights in worship, collection of offerings and the like.



141. *Indemnity of members and servants.*—The members and officers of the Board and its subsidiary bodies will be charged with responsible duties of supervision and control, and it is desirable that, except where they have acted in bad faith or from malice, they should be protected from any claim for damages or prosecution in regard to any act done by them in their official capacity. We would point out that section 24 of the Ancient Monuments' Preservation Act (VII of 1904), section 96 of the United Provinces Town Improvement Act (VIII of 1919) and other similar Acts have similarly provided for the immunity of the officers or servants employed under them, in respect of acts done in good faith, in the discharge of their public duty.



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## CHAPTER VII.

## DHARMADA FUND.

142. *Dharmada collections*.—We have made enquiries regarding the Dharmada collections, which are being made at different places, in accordance with the customs and usages of trade in various localities, for charity or objects of public utility. The funds are generally raised by traders and commission agents or *adhatias* from customers buying goods from them, and are debited in the accounts which they render to those whose goods they sell. The percentage of deductions is fixed by the Chaudharis of the trade by the common consent of the traders of the locality; and the purpose is variously described as either the Ram Lila or Goshala, or some other object of public utility, which the Chaudharis may consider worthy of support. The accounts of such funds are maintained by the traders under a separate ledger heading generally called the *dharmakhata*, in their account books; and not unoften the individual holding the funds pays public subscriptions and charitable contributions demanded of him out of that fund. Cases are not rare in which such funds have either remained idle or have been used for private personal purposes.

143. *Control to be left to local traders*.—The system is based on the traditional sentiment to set apart some portion of the income or sale-proceeds for charitable purposes; and it being organized on a voluntary basis, traders will strongly resent a demand for the compulsory delivery of such funds or any scrutiny of their account books by an outside authority for that purpose. The trade Panchayats or Chaudharis may be encouraged to keep a scrutiny over such funds and to see that they are applied to proper purposes; but we do not recommend that the Board should, for the present, take over these funds or ask the traders to render an account thereof to the Board.



## CHAPTER VIII.

### FINANCIAL PROVISION.

144. *Need for funds.*—The general superintendence and control provided by the scheme would require some financial provision to meet the expenditure. The President of the Board, in whom the executive powers of the Board shall be vested, will necessarily be a whole-time salaried officer. The other members of the Board should be honorary workers, and may, if necessary, be paid an allowance. The Board would, besides, require an adequate ministerial and inspecting staff for carrying on its work, both at the headquarters and in local areas. Moreover, the Board would need money for meeting expenses in connection with the establishment of the Board of Arbitration, or the institution of cases in courts, where necessary. It may also have to make advances for the repairs or improvements of temples, *ghats* or other institutions for which no source of income exists.

145. *A central fund desirable.*—We would suggest that the expenses of the Board and its subsidiary organizations should be met out of a fund raised from different sources on the lines hereinafter explained. There may be practical difficulties if Area Committees are required to raise their own funds separately. We therefore recommend that the Board should have a Central Fund, out of which it should meet its own expenses and allocate funds for the various Area Committees according to their needs.

146. *Levy of fees and duties not practicable.*—The source of income for constituting this fund which suggests itself most easily would be the levy of some fee on pilgrims or worshippers. In fact, at one time the British Government levied fees, varying from rupees two to rupees six per head, from pilgrims visiting the Shri Jagannath Ji temple at Puri, and enforced the payment by Regulations beginning with Bengal Regulation IV of 1806. They also imposed duties varying from rupee 1 to rupees 20 per head on persons visiting the confluence of the rivers Ganges and Jumna at Allahabad for ablutions. By Regulation XVIII of 1810 the access to the place of ablution was restricted to a certain number of gates or avenues through which people were admitted on the production of a prescribed licence or *muafi chhithee*, and a sufficient military force was made available to the Collector, on Mela days, to be posted at the said barriers in order to prevent the concourse of people from breaking



through or otherwise forcing admission. These fees and duties, however, proved so unpopular that they had to be repealed by Act I of 1840. It may also be mentioned that an attempt was made, at one time, to levy admission fee from pilgrims visiting the inner sanctuary of the temple of Shri Ranchod Raiji at Dakore; but the matter was taken up to the Bombay High Court, which held that the temple was intended for public worship and the rules prescribing the fees for admission were illegal and *ultra vires* <sup>(1)</sup>. The witnesses examined by the committee, without exception, oppose the levy of any such fee for admission to the temples intended for public worship, and the proposal to raise a fund, by this means for meeting the expenditure of the board or for defraying the expenses on improvements cannot be seriously entertained. Such duties were resented by the people when they were imposed, and they would be resented even more strongly now.

147. *Some sources of income.*—It is true that the Board will derive some income from fines and penalties which it may impose, and it may also receive gifts and donations from time to time. It has also been suggested by some witnesses that the Government should be asked to make over all escheated properties left by Hindus dying without heirs, to the Board. His Holiness Shri Jagadguru Shri Shankaracharyaji Maharaj's evidence is clear on the point. His Holiness says "According to the Shastras, any property escheated to the Crown does not become Crown property, but only public property to be administered by the Crown as such. The idea underlying inheritance, under the Hindu Dharma Shastras, is that the inheritor gets the property, not for the purpose of using and enjoying it as he likes, but as the person who performs the necessary religious rites for the benefit of the soul of the deceased. It is, therefore, only in accordance with that basic idea that even a Government or an Ecclesiastical Tribunal, which is called upon to administer any escheated estate, should regard itself as the spiritual inheritor of the estate of the deceased and act accordingly, i.e., apply the income from such estates to spiritual and charitable purposes only." In the light of this and other such pronouncements, we would recommend the inclusion, in the proposed Act, of a provision for the handing over to the Board of all escheated property of the Hindus in the provinces, irrespective of the amount that may be realized thereby.

148. *Government to make grants.*—But these sources of income will not be sufficient to meet the expenses of the Board and the other bodies we have suggested. Therefore, in our opinion, the most proper thing would be for the Government to make grants for the purpose.

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<sup>(1)</sup> *Ashram v. Manager of Dakore temple committee*, I. L. R., 44 Bom., 150.



*Obligation of Government towards Christian Churches.*—Under sections 118—123 of the Government of India Act, 1915, the Government bears considerable expenditure in connection with the maintenance of a large Episcopal staff for the established, and even other churches. We, however, only recommend that the Government should give the necessary financial help not, it may be observed, for the maintenance of Hindu places of worship, but merely for the general superintendence of Hindu religious endowments, institutions and funds, with a view to their protection from spoliation and waste. The obligations which the Government owes to the Hindu, Muslim and Christian populations are alike; if public funds can be used for the benefit of one section, surely our demand for some financial assistance for the control and supervision of our religious endowments, institutions and funds cannot be regarded as unreasonable.

*Obligation of Government under Bengal Regulation XIX of 1810 unfulfilled.*—Further, the Board will be concerned with the maintenance and repairs of *ghats*, *dharamshalas*, *serais* and other places of public utility, which are lying neglected and uncared for because they do not happen to be monuments of historical or antiquarian interest. It may be mentioned that under section 3 of the Bengal Regulation, XIX of 1810, it is the duty of the Board of Revenue to provide, with the sanction of the Government, for the due repair and maintenance of all public edifices, which have been erected, either at the expense of the former or present Government or of individuals, and which either at present are or can be conveniently rendered conducive to the convenience of the community. The Government has not met its liability in this respect so far, and whatever assistance the Board will receive from the Government for this purpose shall in effect be in the liquidation of that liability.

149. *Free loan of Government Auditors.*—We would also recommend that the Government should lend the services of the Examiner of Local Fund Accounts free to the Board in order that it may get the accounts of religious and charitable endowments, institutions and funds of class II audited. The services of such auditors are granted free of charge for the audit of accounts relating to securities and properties vested in the Treasurer of Charitable Endowments under Act VI of 1890. The Board of Religious Endowments in Madras, where the work is much heavier, have also made a similar request.

150. *Power to levy contributions in certain cases.*—If, however, the sources of income mentioned above and the Government grant are at any time found insufficient to meet all the expenses of the Board for any year, the Board may be empowered to levy a contribution of not more than



2 per cent. from all endowments, institutions and funds belonging to class II (including those covered by schemes settled by the court), having an income above a prescribed minimum, for its special needs. Such contribution shall be recoverable through the Collector, as arrears of land revenue. It is essential to exclude institutions whose gross income does not exceed a prescribed minimum. The managers of many such institutions have stated that their income from offerings is insufficient to meet the expenses connected with the maintenance of the priestly staff and the repairs of the institutions in their charge; and they have expressed their inability to make any contribution towards the expenses of the Board. In fact, charitable institutions, like *dharmashalas*, *ghats*, tanks and the like, can have little or no income of their own; and the income derived from the offerings made at small temples or places of worship, being primarily intended for the priestly staff attached to the institution, and the expenses connected with the maintenance of daily worship and the celebration of periodical festivals and observances, cannot be diverted to any other use. In our estimate the income from this source, after making the exemptions, would not be very appreciable; while it may create considerable dissatisfaction amongst the trustees affected, who are bound to evade payment of this contribution, as has happened in Madras. It is for these reasons that we have suggested this source to be tapped as a last resort to meet special emergencies. The offerings made at Jain and Shiva Temples cannot be used for purposes other than those directly connected with them. Jains and Sanatana Dharm Hindus generally would, in all probability, have great scruples in accepting service under the Board, if its income includes any portion of the offerings made at such temple.

151. *Saving clause.*—The recommendations we have made in Chapters V to VIII shall not, for obvious reasons, affect any charitable endowment, institution or fund, the property of which is being administered by the Treasurer of Charitable Endowments, the Administrator-General or the Official Trustee, or is in the charge, for the time being, of a receiver appointed by a court of competent jurisdiction. The powers which the Advocate-General may exercise under sub-section (2) of section 114 of the Government of India Act of 1915, in respect of property situated outside these provinces, being secured by a Parliamentary enactment will also remain unaffected.



## CHAPTER IX.

## RECAPITULATION AND TRANSITORY PROVISIONS.

152. *Appointment of a Registrar of Hindu Endowments.*—Much spade work in the shape of collecting necessary data, organizing basic Sampradayik electorates and getting elected the bodies we have recommended, will have to be done before the scheme based on our recommendations can come into force; at the same time, there should be no delay in taking up the work. With this end in view, we recommend that immediately after the passing of the proposed Act, a Registrar of Hindu Endowments should be appointed for this purpose. As the success of the scheme will to a great extent depend on the Registrar's qualifications, we need hardly point out, that the Registrar should be a Hindu, both by birth and by faith, and should possess the necessary capabilities, experience and status, to discharge his duties to the satisfaction of all concerned. If he is able to command the confidence of the religious minded Hindus, his work will greatly be facilitated. He may, if necessary, be assisted by not more than two Assistants (to be styled Assistant Registrars of Hindu Endowments). Mahants, non-mahant sadhus and grihasthas should be equally eligible for such appointment. The work of organization should be completed within a period not exceeding three years. We would suggest that the Registrar of Hindu Endowments and his Assistant or Assistants, if any, should be appointed by the Government, who should provide their emoluments and bear all the costs and expenses connected with their work.

153. *Power and duties of the Registrar.*—We do not desire to give the Registrar wide powers of supervision and control, for as we have stated above, his chief work would be to organize the electorate. At the same time, it will be necessary to protect the property of a trust or endowment from being wasted or squandered during this interim period. Accordingly, we are of opinion that the Registrar should have the following powers and duties :—

- (a) He should exercise the powers of the Registrar of Societies under Act XXI of 1860, in respect of all Hindu public religious and charitable endowments, institutions and funds, in the United Provinces. Provision for conferring this power on him should be made at the time of the amendment of the said Act as proposed above.



- (b) He should prepare a detailed record of all Hindu public religious and charitable endowments, institutions and funds on the lines recommended above, except that he should not record the customs or usages as to the religious observances, and the appointment, election or succession of Mahants, trustees or managers.
- (c) He should call for the accounts of all the Hindu public religious and charitable endowments, institutions and funds in the province, and get them audited.
- (d) In cases of embezzlement, he should appoint a receiver to take charge of, and administer, the property concerned, pending permanent arrangements.
- (e) He should have the power to institute (without the previous sanction of the Legal Remembrancer) or sanction the institution of suits, under section 92 Civil Procedure Code.
- (f) He should, on the basis of the data collected by him, make proposals to the Government, regarding the qualifications of the electors, the names and areas of the constituencies, the method of election, and other allied matters consistent with the recommendations hereinabove made in respect of these points. The Government should pass orders thereon, after inviting public criticism of his proposals and, if necessary, the advice of an *ad hoc* committee constituted for this purpose. The Registrar should then organize the constituencies on the lines finally decided upon, and hold elections for bringing the first Board and its subsidiary bodies into existence.

154. *Legislation when to be effected.*—We are afraid, when the public mind is preoccupied with the constitutional issue, the comparatively minor, but all the same vital, question of the control and supervision of Hindu religious and charitable endowments, institutions and funds in the province, will receive scant attention. With the present state of popular feeling towards the Government, any measure, however well-intentioned and beneficial it may be, is likely to be looked upon with suspicion. We, therefore, consider the present moment inopportune for the introduction into the Legislature of a Bill, based on our recommendations. We accordingly recommend, that the proposed legislation should be taken up after the constitutional issue, now pending, has been settled and passions cooled down.

155. *Recapitulation.*—It has at times been suggested, that only certain sections of the Hindu community, who have received Western



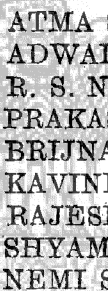
education or are imbued with Western modes of thought, have been demanding increased powers for the regulation, superintendence or supervision, of religious and charitable endowments, institutions and funds. The voluminous evidence produced before the Committee, comprising the views of people of all classes and shades of opinion, will however show, that it has been as much a matter of complaint with the conservative sections of the community as with the educated classes, that the Government has not made adequate provision to prevent effectively the mismanagement of endowed property. The educated classes and the members of the Legislature have only been voicing the feelings of the general public in this respect.

We have purposely avoided going into the minute details, connected with the working of the proposed scheme, and have dealt only with its broad outlines; for, if the underlying principles are once accepted, the details can be easily worked out. We have not proposed any interference, worth mentioning, with *akharas*, and other bodies coming under class I mentioned above, because, we believe that so long as they furnish accounts, they can be left to carry on their own administration, according to the memorandum of association, by which their members have agreed to bind themselves. We have proposed a Central Endowments Board with Area Committees to be constituted, wherever needed, on strictly Sampradayik lines, for the work of local superintendence of all other endowments, institutions and funds; and we have suggested provisions, for representatives of the sect concerned being co-opted in every enquiry, where any matter or dispute, relating to an institution of that sect is concerned. We have thus sought to provide the simplest and speediest method practicable, for settling disputes and removing mismanagement; and we feel confident, that our scheme will meet with whole-hearted approval, from the Sampradayas concerned, from the cultured general public and from the Government.

156. *Concluding remarks.*—In conclusion, we desire to acknowledge the valuable services rendered by the Secretary, Pandit Suraj Nath Sapru, in connection with the work of the Committee, and the material assistance given by him in the collection and collaboration of the materials required for the report. Since June 1, 1930, he has been working in an honorary capacity, and the Committee note with satisfaction that his work during this period has been marked with the same industry and enthusiasm as before. We cannot help placing on record our appreciation of the strenuous labour, ungrudgingly put in by Babu Har Narayan Tandon, Head clerk of the Committee, whose services were also placed at our disposal by the Government. Throughout the enquiry, ready assistance was received from the District Officers and leading



gentlemen of every district visited by the Committee; and we are grateful to them and to the gentlemen who responded to our questionnaire, or came to give evidence before the Committee and helped it in its work. The question, which the Committee had to consider, was of a difficult and delicate nature and required a careful examination of the different view-points, in order to find a solution, satisfactory, so far as it was practically possible, on the broad issues, to the leaders of religious thought and the public alike. The Committee has earnestly striven to achieve that end; and it is hoped that the proposals now formulated, will materially help to purify the administration of religious and charitable endowments, institutions and funds in the province and herald an era of benevolent progress in their history, to the glory of God and the uplift of humanity.



RAM BALLABHA SARAN.  
 DAYANAND.  
 DHARAM DAS.  
 ATMA-SWARUP.  
 ADWAITANAND.  
 R. S. NARAYANA SWAMI.  
 PRAKASHANAND SARASWATI.  
 BRIJNATH SHARGA.  
 KAVINDRA NARAYAN SINHA.  
 RAJESHWAR BALI.  
 SHYAM BEHARI MISRA.\*  
 NEMI SARAN JAIN.\*

सत्यमेव जयते



## SUMMARY OF RECOMMENDATIONS.

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1. *Area Committees.*—(a) In any area (consisting of a district or a group of districts) there shall be constituted an Area Endowments Committee composed of seven Denominational Area Committees of the following groups :—

- (1) Shankar (Smart) Sampradaya.
- (2) Vaishnava Sampradaya.
- (3) Udasi Sampradaya.
- (4) Sikhs including Nirmalas.
- (5) Jains and Buddhists.
- (6) Arya Samajists.
- (7) Anya Sampradaya (Miscellaneous e.g., Gorakhnathis, Radhaswamis, Brahmo Samajist etc.) (Paragraphs 73, 79 and 81).

(b) Each Area Denominational Committee shall be composed of three members professing the Sampradaya concerned. In the case of the first four Sampradayas, it shall consist of a *mahant*, a non-*mahant sadhu* and a *grihastha*; while in the case of the others, the distribution of seats shall be made after consulting the wishes of the group concerned. (Paragraph 74.)

(c) Each Denominational Committee shall be elected by persons professing the same Sampradaya, who belong to the Area concerned. The declaration by a person that he belongs to a particular Sampradaya shall be sufficient evidence that he professes that Sampradaya. (Paragraph 80.)

2. *Central Bodies.*—(a) The members of an Area Denominational Committee of each Sampradaya in the province shall together elect three members to the Central Denominational Committees of that particular Sampradaya. In the case of the first four Sampradayas the members elected shall be a *mahant*, a non-*mahant sadhu* and a *grihastha*, professing the Sampradaya concerned; while in the other cases, the distribution of seats shall be made after consulting the wishes of the community or Sampradaya concerned. (Paragraph 82.)



(b) The Central Denominational Committees thus elected shall constitute the Central Endowments Board. (Paragraphs 73 and 83.)

3. *Term of membership.*—The members of the aforesaid Central bodies and Area Committees shall hold office for five years, and the eligible for re-election. (Paragraph 84.)

4. *President of the Board.*—The Board shall elect a panel of three persons for appointment as its President, and forward their names to the Local Government, who shall appoint one out of them. In making the appointment due regard shall be paid to the desirability of appointing the person who commands the greatest degree of confidence of all the Sampradayas. The President shall be the chief executive functionary of the Board. He should be a whole-time salaried officer, unless he be a *sadhu*, who cannot accept a salary, in which case adequate allowance shall be paid for his maintenance. He shall hold office for five years; or in case he is a member of the Board, till the term of his membership expires. (Paragraphs 89, 90 and 91.)

5. *Powers and functions of the President.*—The President shall :—

(a) preside ex-officio over the meetings of all the central Denominational Committees and the Joint Committee where, as in the Board, he shall have the right of a second or casting vote;

(b) exercise the powers of the Registrar of Hindu Endowments;

(c) appoint Receiver in cases specified above;

(d) appoint, punish or remove any servant of the Board, in accordance with the rules framed therefor; and

(e) carry out such other duties as the Board may, from time to time, entrust. (Paragraph 126.)

6. *President of Area Endowments Committee.*—Each Area Endowments Committee shall elect its own President, who shall discharge in an honorary capacity duties corresponding to those of the President of the Board described elsewhere. (Paragraph 93.)

7. *Jurisdiction.*—The Central Endowments Board, shall exercise general superintendence and control over all the public religious and charitable endowments, institutions and funds in the province, belonging to the Hindu community or any sect or section thereof, other than societies or institutions incorporated or constituted under any Act of the Legislature, and institutions founded purely or mainly for imparting secular education. (Paragraphs 94 and 95.)



8. *Mixed objects*.—Where an endowment has been created or property given partly for a secular purpose, not falling within the jurisdiction of the Board; it shall be open for the Board, to assume the control of the whole property and to determine what portion or income thereof shall be allocated to religious or charitable purposes, falling within the purview of the Board. The whole or such portion thereof shall thereafter be administered, as if it were an endowment for religious or charitable purposes alone. (Paragraph 97.)

9. *Classification of endowments*.—For the purposes of the application of our recommendations the public Hindu religious and charitable endowments, institutions and funds in the province shall be divided into two classes namely :—

(I) (a) Existing Akharas—(1) Juna Akhara (2) Nirwani Akhara (3) Niranjani Akhara, of Sanyasis; (4) Digambar Akhara (5) Nirwani Akhara (6) Nirmohi Akhara, of Vaishnavas; (7) Bara Udasi Akhara, (8) Naya Udasi Akhara of Udasins; (9) Nirmala Akhara of Sikhs, with their branches.

(b) Associations, whether at present registered or not formed for the purpose of Sanskrit education or the maintenance of *sadhus*, poor houses, *goshalas*, Ramlilas or the like, and deriving their income solely from their members.

(II) Other endowments, institutions and funds, including such *maths* or *asthans* as are independent of (I). (Paragraph 99.)

10. *Institutions of class I exempted*.—In regard to endowments, institutions and funds of class I, the Board's duty shall be confined only to recording. Steps should, however, be taken to stiffen the control of members thereof by applying to them certain provisions of the Indian Companies Act.

11. *Functions and powers of the Central Endowments Board*.—(i) The Board shall maintain a record of all the endowments, institutions and funds of both the classes mentioned above; giving the following particulars in regard to each :—

(a) its origin;

(b) the objects of the endowment, trust or foundation,

(c) the constitution of the committee of management or trustees, or other scheme of administration, if any, with the names and addresses of the *mahant*, manager, superintendent, or other persons in charge;



- (d) the customs or usages as to the religious observances, and the appointment, election or succession of *mahants*, trustees or managers;
- (e) the properties, movable and immovable attached thereto, with the approximate value thereof;
- (f) the annual expenditure sanctioned or incurred for :—
  - (i) religious or charitable purposes, and
  - (ii) the staff employed, during the preceding three years;
- (g) the names of all offices connected with the endowment or institution, to which any salary, emolument or perquisite is attached, and the nature, period and conditions of service in each case; and
- (h) any other particulars that may be prescribed by the Board.  
(Paragraph 101.)

(ii) *Protection of unprotected buildings.*—The Board shall be guardian or manager of unprotected religious or charitable buildings of the Hindu community, not specifically in the charge of any specific body of trustees, superintendents or managers, and a tablet shall be fixed at every such place to show that it is a protected place in the charge of the Board. (Paragraph 102.)

(iii) *Adoption of protective measures.*—In the case of endowments institutions and funds falling under class II mentioned above, the Board shall adopt measures to protect their properties against loss, wastage or alienation, prevent the misappropriation or misapplication of their incomes, for purposes not consistent with the objects of the trust, and issue such directions for the restoration or recovery of the endowed properties or proceeds thereof, as may be found necessary. Persons guilty of wilful neglect or disobedience of such orders shall be liable to be punished by the Board; such punishment may take the form of fine, and in cases of delinquent trustees also of suspension or removal. (Paragraph 103.)

(iv) *Supervision and control over institutions of class II.*—In the case of endowments, institutions and funds falling under class II, the Board shall have the power :—

- (a) to enquire into their condition, working and management, and for this purpose to make inspection or local enquiry, record evidence and call for statements and affidavits, books and documents that may be required. Such enquiry may be made *suo motu*, or on the complaint of any person having an interest, or on the report of an Area Committee, (Paragraph 104.)



- (b) to suspend or remove a *mahant*, trustee, or other person in charge found guilty, or otherwise incapable of discharging his duties. (Paragraphs 108 and 109),
- (c) to appoint a new person to fill up a permanent vacancy and vest the property in him. (Paragraph 108),
- (d) to settle a scheme of management, or to alter or cancel, when necessary, any scheme framed by itself, or by a court of law (Paragraph 108),
- (e) to appoint a receiver in such vacancies which cannot be immediately filled up, or where a dispute regarding succession, or the minority, or the physical incapacity of a trustee, renders the appointment necessary. (Paragraph 110),
- (f) to apply the doctrine of Cypres, i.e. to give effect to the intentions of the donor by applying funds to the nearest possible objects, in cases where the original object or mode of execution has not been clearly defined, or has failed, or has become incapable of execution, or where an unprovided for surplus exists. (Paragraph 114.)

(v) *Power to sanction transfers.*—In the case of endowments, institutions and funds of class II, no transfer of a turn of worship, or a right to a priestly office, made in favour of a person, who is not a co-sharer, and is not of the same Sampradaya as the institution concerned, and no transfer of endowed property, other than a lease for a term not exceeding five years, shall be valid or operative without the previous sanction of the Board. (Paragraph 111.)

(vi) *Protection of the corpus of endowed property.*—Costs and expenses on legal proceedings in respect of, or awarded against, any endowment, institution and fund (of either class) shall be payable out of the income and not the corpus of the property of that endowment, institution or fund. (Paragraph 112.)

(vii) *Delegation of powers to Area Endowments Committees.*—The Board may delegate to the Area Endowments Committees all or any of its powers and functions, in respect of endowments, institutions and funds, whose annual income is below a prescribed minimum. (Paragraph 98.)

12. *Restriction on powers.*—The Board shall have no power :—

- (a) to divert the income or property or surplus funds of any Hindu public religious or charitable endowment, institution or fund to any purpose unconnected therewith, or inconsistent with the intentions of the founder;



- (b) to interfere with the religious worship, ceremony or observance, practice, usage or instruction conducted thereat, as long as it is consistent with the directions of the authors of the trust or the Shastras. (Paragraph 120.)

13. *Central Denominational Committees.*—Each Denominational Committee shall meet from time to time, and shall be the channel through which the Board shall function and exercise its powers relating to that Sampradaya, in respect of making enquiries, removal or appointment of trustees, framing of schemes of management, application of the doctrine of Cypres, sanctioning transfers, dealing with disputes as to succession to hereditary trustees, and the adoption of preventive measures. It shall hear appeals from such orders passed by the Area Denominational Committee concerned as may be prescribed. The committee may, if necessary co-opt two members (not necessarily of the same Sampradaya or members of the Board) to assist it in the proper discharge of its duties. (Paragraph 121.)

14. *Joint Committee.*—The Board and each Area Endowments Committee may appoint a Joint Committee of not more than five, from among its own members, to deal with matters belonging to charitable institutions and other institutions not relating to any particular Sampradaya, in respect of all the powers and functions exercised through the Denominational Committees mentioned above. (Paragraphs 86 and 125.)

15. *Board of Arbitration.*—Every dispute relating to the applicability or otherwise, of the proposed legislation to a particular endowment, institution, property or fund, and every appeal in cases of succession, removal or appointment of hereditary trustees, shall be referred for adjudication by the Board to an *Ad Hoc* Board of Arbitration consisting of a nominee or nominees of the Board, a nominee or nominees of the aggrieved party or parties and a nominee of the High Court or Chief Court, (or, in case the valuation is below a prescribed minimum, of the District Judge). But the Board of Arbitration shall not interfere in matters which are purely of a Sampradayik character. (Paragraphs 87 and 116.)

16. *Option to go to court.*—Notwithstanding anything herein contained, or provided by sections 92 and 93, and Order I Rule 8 of the Code of Civil Procedure, the Board may, where it thinks fit, institute, or grant sanction to institute, a suit in the ordinary courts of law, for obtaining all or any of the reliefs mentioned in section 92, Civil Procedure Code. (Paragraph 117.)



17. *Exclusive jurisdiction of the Board.*—Unless a case is referred to the ordinary courts by the Board, the latter shall have exclusive jurisdiction to try all cases relating to Hindu public religious and charitable endowments, institutions and funds in the province in respect of matters referred to in these recommendations (including cases under Act XX of 1863, section 92, Civil Procedure Code, and Act XIV of 1920). (Paragraph 118.)

18. *Execution of decrees and orders.*—All decrees and orders of the Central Board and of the Board of Arbitration shall be executed by the Civil Court, as if they were its own decrees or orders. (Paragraph 119.)

19. *Area Committees.*—Each Area Endowments Committee shall work, in its own local area, on the same general lines as have been laid down for the Board; and each Area Denominational Committee shall likewise function in respect of Sampradayik matters in that area. The Area Denominational Committees should also (like the Central Denominational Committees) have the power to co-opt not more than two members (not necessarily of the same Sampradaya or members of the Area Committees) to help them in the proper discharge of their duties. (Paragraph 123.)

20. *Staff of the Board.*—The work of the Board shall be carried on through its officers and servants, whose number, designation and conditions of service, it shall from time to time determine. (Paragraph 128.)

21. *Meetings of the Board.*—The Board shall meet at least twice a year to consider and adopt the budget, lay down lines of general policy, frame rules for its own guidance and that of the subsidiary bodies, and the conduct of its affairs, deal with intra-sampradayik matters, and to review the working of all committees, including Area Committees, and to consider other matters of general interest. (Paragraph 129.)

22. *Indemnity of members and servants.*—The members of the various bodies proposed by us, and their officers, agents and employees, shall be protected, like other public servants, in respect of anything done by them in good faith in their official capacity. (Paragraph 141.)

23. *Amendment of the Societies' Registration Act.*—The Societies' Registration Act (XXI of 1860) should be so amended as to:—

- (1) confer on the President of the Board the power of registering all Hindu public religious and charitable endowments, institutions and funds in the province, and to provide that the powers at present exercised under the Act by the



Registrar of Joint Stock Companies in regard to such endowments, institutions and funds shall cease;

- (2) require every such endowment, institution and fund falling within the jurisdiction of the Board,
- (a) to get itself registered by the President of the Board,
  - (b) to keep a regular account of its income and expenditure,
  - (c) to maintain a record of its proceedings,
  - (d) to maintain a register of its members,
  - (e) to maintain a register of its movable and immovable property,
  - (f) to submit an annual report of its work with an audited statement of its account to the Board,
  - (g) to report to the Board every change in its constitution, objects or the members of its governing body; and
- (3) declare that the trustees or members of the governing body shall individually and collectively be chargeable by law for such property as shall come into their hands, and answerable and accountable for their respective acts, receipts, neglects or defaults, and for the due administration of the charity and its property, in the same manner and to the same extent, as if no such incorporation had been effected. (Paragraph 137.)

24. *Amendment of section 22, Act XX of 1863.*—Section 22 of Act XX of 1863 should be amended so as to enable the Board to utilize or loan the services of any officer of the Government in connection with its work. (Paragraph 138.)

25. *Amendment of the United Provinces District Board and Municipalities Acts.*—Section 147 of the United Provinces District Boards Act (X of 1922), and section 116 of the United Provinces Municipalities Act (II of 1916), should be amended so as to avoid any possible conflict of jurisdiction in regard to property, falling within the purview of the Board. (Paragraph 139.)

26. *Amendment of the Land Acquisition Act.*—The provisions of the Land Acquisition Act should be extended so as to enable the Board on payment of adequate compensation to acquire land for the benefit



of any particular endowment, institution or fund within its jurisdiction, or the transferred right of collection of offerings and the like. (Paragraph 140.)

27. *Funds of the Board.*—The funds of the Board shall consist of :—

- (a) annual grants from the Government,
- (b) property of heirless Hindus dying intestate,
- (c) fees and penalties under the proposed Act, whether levied by the Board or any of its subsidiary bodies, and
- (d) gifts and voluntary contributions.

If, however, these sources of income are at any time found insufficient to meet all the expenses of the Board for any year, the Board may be empowered to levy a contribution of not more than 3 per cent. of their gross income from the endowments, institutions and funds belonging to class II, having an income above a prescribed minimum (including those governed by schemes settled by court). These contributions shall be recoverable, through the Collector, as arrears of land revenue. (Paragraphs 147, 148 and 150.)

28. *Funds of the Area Endowment Committees.*—The Board shall make annual grants to the Area Endowment Committees for the conduct of their duties. (Paragraph 145.)

29. *Free loan of Government Auditors.*—The Government should lend the services of the Examiners of Local Fund Accounts free to the Board, in order that it may get the accounts of endowments, institutions and funds of class II audited. (Paragraph 149.)

30. *Saving clause.*—These recommendations shall not affect any charitable endowment institution or fund, the property of which is being administered by the Treasurer of Charitable Endowments the Administrator-General, or the Official Trustee, or is in charge for the time being, of a receiver appointed by a court of competent jurisdiction. The powers, which the Advocate-General may exercise under sub-section (2) of section 114 of the Government of India Act, 1915, in respect of property situated outside these provinces, will also remain unaffected. (Paragraph 151.)

31. *Appointment of a Registrar of Hindu Endowments.*—The scheme based on the above recommendations should come into force as soon as the various Sampradayik electorates are organized on the lines suggested. It is, therefore, recommended that immediately after the



passing of the proposed Act, a Registrar of Hindu Endowments should be appointed. He should be a Hindu by birth and faith, and should possess the requisite experience and status, to discharge his duties to the satisfaction of all the interests concerned. He may be assisted by not more than two assistants, if necessary. *Mahants*, non-*mahant sadhus* and *grihasthas* should be equally eligible for such appointment. The work of organization should be completed within a period not exceeding three years. The Registrar of Hindu Endowments, and his assistants, if any, shall be appointed by the Government, who shall provide their emoluments and bear all costs and expenses connected with their work. (Paragraph 152.)

32. *Registrar's powers and duties.*—The Registrar shall have the following powers and duties :—

- (a) He should exercise the powers of the Registrar of Societies under Act XXI of 1860 in respect of all Hindu public religious and charitable endowments, institutions and funds in the United Provinces.
- (b) He shall prepare a detailed record of all Hindu public religious and charitable endowments, institutions and funds on the lines recommended above; but he shall not record the customs or usages.
- (c) He shall call for accounts of all the Hindu public religious and charitable endowments, institutions and funds in the province and get them audited.
- (d) In cases of embezzlement, he shall appoint receivers.
- (e) He shall have the power to institute (without the previous sanction of the Legal Remembrancer), and sanction institution of, suits under section 92, Civil Procedure Code.
- (f) He shall, on the basis of data collected, make proposals to the Government regarding the qualifications of the electors, the names and areas of constituencies, the method of election and other allied matters, consistent with the recommendations made above. The Government shall pass orders thereon, after inviting public criticism and, if, necessary, the advice of an *ad hoc* committee. The Registrar will then organize and hold elections to constitute the first Board and its subsidiary bodies. (Paragraph 153.)

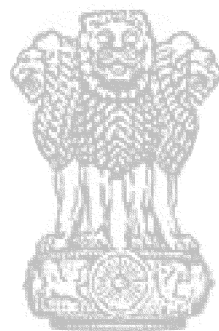


33. *Nomenclature.*—The following nomenclature should be adopted in the proposed Act :—

For all Hindu public religious and charitable endowments, institutions and funds, as a class	...	...	Dharmadaya.
For the Central Endowments Board	...	...	Kendriya Dharma Sangha.
For the President of the Board	...	...	Sanghadhyaksha.
For the Central Denominational Committees	...	...	Kendriya Sampradayik Samitis.
For the Board of Arbitration	...	...	Nyaya Parishad.
For the Area Endowments Committees	...	...	Sthaniya Dharma Sabha.
For the President of the Area Endowments Committee	...	...	Sabhapati.
For the Area Denominational Committees	...	...	Sthaniya, Sampradayik Goshtis.
For the Area Joint Committees	...	...	Sthaniya Sanyukta Goshtis. (Paragraph 136).

34. *When proposed legislation to be taken up.*—We recommend that the proposed legislation should be taken up after the constitutional issue, now pending, has been settled. (Paragraph 154.)





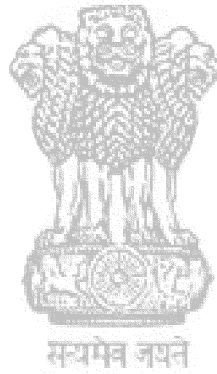
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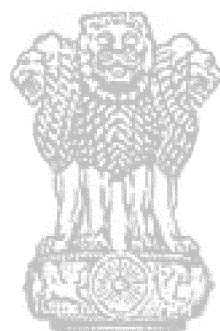
## PART III

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## APPENDICES







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## APPENDIX A.

No. 47/XVI—335.

PUBLIC HEALTH DEPARTMENT.

*Dated Allahabad, January 27, 1928.*

### RESOLUTION.

THE Government has for some time past had under consideration the measures which could effectively be taken for the better administration and supervision of Hindu religious and charitable endowments. After informal consultation with a number of prominent gentlemen of the Hindu community including members of the Legislative Council, the Governor acting with his Ministers is pleased to appoint the following gentlemen to constitute a committee to examine these questions :—

Hon'ble RAJA SIR RAMPAL SINGH, K.C.I.E., of  
Kurri Sudauli (district Rae Bareli)

... *President.*

1. Swami ATMA SWARUPJI (Vyakhan Yachaspati, Gurumandal Ashram), Hardwar ...
2. Swami MANGALNATEJI (Moni-ki-Reti), Rishikesh (district Dehra Dun) ...
3. Mahant DHARAM DASJI (Panchaiti Akhara), Allahabad ...
4. Pandit RAM VALLABHASHARANJI (Janki Ghat), Ajodhya ...
5. Goswami MADHOSUDAN LALJI (Radha Raman), Brindaban ...
6. Swami DAYANANDJI, Bharat Dharma Mahamandal, Benares ...
7. R. S. NARAYANA SWAMIJI, No. 25, Marwari Gali, Lucknow ...
8. Pandit GOBIND BALLABH PANT, M.L.C., Naini Tal ...
9. Rai Bahadur Pandit KANHAIYA LAL, Retired Judge, Allahabad ...
10. Hon'ble Justice PANDIT GOKARAN NATH MISRA, Lucknow ...
11. Pandit VENKATESH NARAYAN TIWARI, M.L.C., Allahabad ...
12. Hon'ble RAJA MOTI CHAND, C.I.E., Benares ...
13. Pandit BRIJNATH SHARGA (Advocate, Rani-katra), Lucknow ...
14. Pandit RAMA KANT MALAVIYA, Vakil, Allahabad

... *Members.*



The Governor is also pleased to authorize the Committee thus constituted to co-opt two additional members, if the Committee find this necessary to complete their enquiry.

The duties of the Committee will be to advise what steps, if any, should be taken to provide for the better governance, administration, and supervision of the public religious and charitable endowments, institutions and funds of the Hindu community including *dharamshalas*, *dharmadayas*, and other institutions of the like nature.

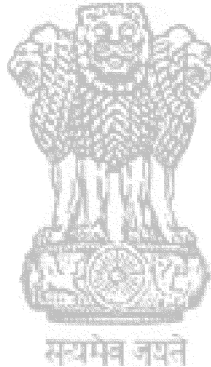
The Committee will meet when convened by the President.

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ORDER.—Ordered that a copy of this resolution be forwarded to the President and members of the Committee for information.

Ordered also that it be published in the *United Provinces Government Gazette* for general information.

By order,  
I. D. ELLIOTT,  
*Secretary.*





## APPENDIX B.

### Hindu Religious and Charitable Endowments Committee.

#### QUESTIONNAIRE.

##### A.—DETAILS OF ENDOWMENTS.

1. Are there in your district or elsewhere in the United Provinces, within your knowledge, any Hindu—

- (1) Religious endowments or trusts,
- (2) Charitable endowments or trusts,
- (3) Temples or *thakurdwaras*,
- (4) *Dharamshalas* or resting houses,
- (5) *Pathshalas* or libraries for secular or religious instruction or for the advancement of learning, maintained from charitable funds,
- (6) Orphanages of widows' houses,
- (7) *Gowshalas*, *pinjrapoles*, dispensaries and hospitals,
- (8) Endowed *anna-kshetras* or *sadarats*,
- (9) Sanctuaries, *samadhis* and *sati-chabutras*, or other places of public adoration,
- (10) *Akharas*, *asthals*, *sangats*, or *maths*,
- (11) Bathing *ghats*,
- (12) Ponds, reservoirs, or wells, built for public use,
- (13) Crematorium buildings or other places, set apart for funeral or religious rites, *मृत्युमेव जयते*
- (14) Gardens, groves, or other enclosures set apart for Ram Lila or other public celebrations,
- (15) Sacred caves, observatories or inscribed pillars, intended for religious instruction, or,
- (16) Other religious or charitable institutions, dedicated for public use, or intended for public worship, or other public benefit of the Hindu community, or any sect or sub-division thereof.

If so, will you kindly give particulars of such endowments, buildings, or institutions with such description of their situation, present condition and other matters, as you possess or are able to ascertain, to help their identification?

2. With reference to the endowments, trusts and other institutions aforesaid, please give such information and particulars as you possess or are able to ascertain regarding the following matters :—

(a) The name by which the institution is known.



- (b) Name and address of the founder, grantor or members of the society, if registered.
- (c) Date and history of its foundation, dedication, construction or incorporation.
- (d) The object for which it was founded, built, set apart, or incorporated.
- (e) The religious sect, if any, to which it belongs.
- (f) Details and value of the endowed property or of the property appertaining to the institution.
- (g) Names and addresses of the trustees, *mahan'ts*, directors, or other persons or committee in charge or possession of the same.
- (h) Whether there are any articles of association or trust-deed, will, or other document or judicial decision or decree creating, declaring or recognizing it as a public institution for the benefit or use of the Hindu community or any sect or sub-division of the same, or otherwise settling its scheme of management.
- (i) Its average annual income—
  - (1) from the property,
  - (2) from offerings or subscriptions or presents, and
  - (3) from other sources with particulars.
- (j) Its average annual expenditure over—
  - (1) upkeep and maintenance,
  - (2) establishment and allowances,
  - (3) daily services,
  - (4) repairs, and
  - (5) other heads with particulars.
- (k) Whether the property or any portion thereof has been alienated and has passed out into the possession of persons having no beneficial interest therein. If so—
  - (1) when,
  - (2) by whom,
  - (3) in what way, and
  - (4) for what purpose.
- (l) Any other information you can supply.



B.—MANAGEMENT OF ENDOWMENTS.

3. Have you any knowledge or practical experience of the working or administration of these endowments, trusts, temples, *maths* and other institutions? If so, of which of them, and in what connection, and for what period?

4. Have you any reason to think—

(1) that these endowments, trusts, temples, *maths* and other institutions are not invariably managed in such a way as—

(a) to secure the due observance or fulfilment of the objects for which they were originally intended, or

(b) to secure the greatest public benefit for the Hindu community;

(2) that endowed properties are at times squandered or wasted, or their incomes applied to objects for which they are not intended; and

(3) that temples, *dharamshalas*, *ghats*, and other buildings, dedicated or endowed for public benefit are allowed to fall into disrepair or neglect for want of proper management?

If so, please state the grounds for your opinion.

C.—MEASURES FOR PROTECTION AND BETTER MANAGEMENT.

5. Do you think that these endowments, trusts and other institutions stand in need of protection to prevent their misuse or to secure their preservation or proper management?

If so, what measures, legislative or otherwise, would you suggest to secure those objects?

I.—*Protector of Religious and Charitable Endowments.*

6. Do you consider it desirable that the post of a Protector of religious and charitable endowments or trusts should be created by statute to look after and help the management and protection of all such public endowments, trusts and other institutions, to receive and examine the annual accounts of their income and expenditure, to arrange to get the same audited every year, and to exercise such other functions as are at present exercised by such officers in some of the Ruling States in India?

If so, what should be his qualifications and powers, and how should his appointment be regulated?



7. If you think that a Protector of public religious and charitable endowments and trusts is desirable, would you require a compulsory registration of all such religious and charitable endowments, trusts, and other such institutions, or exempt those which have already been registered under the Societies' Registration Act (XXI of 1860) or may hereafter be registered under it?

On what grounds would you exempt the latter?

8. If a Protector of public religious and charitable endowments and trusts is appointed, would you give him the position, status and functions, so far as they may be applicable, analogous to those of the Registrar of Co-operative Societies; or would you place him at the head of a committee or Advisory Board to help him in the administration, with power to appoint local committees of persons interested in the endowments, trusts and other institutions aforesaid to supervise their working and management?

9. Should the members of such committee or Advisory Board be nominated or elected, or partly nominated and partly elected, and by whom?

10. Should recognized public bodies or religious associations also have the power to nominate or elect a certain number of members to that body?

*II.—Central Board.*

11. Will the constitution of a Central Board be a more suitable or effective remedy for improving and supervising the management of Hindu endowments?

12. Should this Central Board be formed (a) by statute or (b) by an administrative order of the State or (c) by the people voluntarily?

13. If it is to be constituted by statute or by an administrative order, should its members be nominated, or elected, or partly nominated and partly elected, and by whom?

14. Should recognized public bodies or religious associations or Sampradayik organizations have the power to nominate or elect a certain number of members to that body?

15. In case you suggest a Board voluntarily formed by the people, how would you enforce the orders of a Board voluntarily formed by the Hindus?

16. If you propose that a voluntarily formed Central Board should take action under the existing laws, viz., section 14 of Act XX of 1863, section 92 of Act V of 1908 and section 7 of Act XIV of 1920, please state what experience you have of these enactments, and whether you consider them to be satisfactory or not? If so, in what way?



17. If the Central Board is to be an elected body, how would you provide for the representation of the various Hindu sects and interests in the Province?

18. (a) What do you think should be the qualifications for membership of the Central Board, represented by income, property or religious standing?

(b) Are you of opinion that a certain number of members of the Central Board should be nominated by the Hindu Ruling Chiefs of the Province? Would you include certain Ruling Chiefs outside the Province who have created endowments or built temples, *thakurdwaras*, and other public religious buildings and give them the power to nominate some members separately or jointly?

(c) Are you of opinion that the *mahants* of certain important *maths*, *akharas* and temples should be given the power separately or jointly to nominate a certain number of members of the Central Board? If so, please mention the *maths*, *akharas*, and temples you propose, and their income and importance.

(d) If you are of opinion that a majority of the members of the Central Board shall be elected, what proportion would you fix?

19. Would you confer the power of election on—

- (1) Hindu electors of Municipal and District Boards and Notified Areas,
- (2) Hindu members of the Provincial Legislature, Municipal and District Boards, Notified Areas and Village Panchayats,
- (3) Local Endowment Boards,
- (4) Sampradayik organizations, if any,
- (5) Trustees of Hindu endowments who do not nominate members to the Board,
- (6) Persons and institutions being Hindu and paying a fixed annual contribution to the Central Board?

20. Would you or would you not exclude from the membership of the Board persons who are—

- (a) below 25 years of age,
- (b) non-Hindus,
- (c) of unsound mind,
- (d) undischarged insolvents,
- (e) trustees of an endowment,
- (f) paid servants of any endowment, the Central Board, Local Boards or Sampradayik organizations,
- (g) convicted of an offence involving moral turpitude?



21. Would you fix the term of membership of the Board at three or five years, or would you require a certain proportion of the members to retire by rotation every three years to provide for the continuity of the functions of the Board?

22. (a) Should the chairman be elected by the Board, or nominated?

(b) In the latter case, who should nominate him and what should be his term of office?

23. Would you like to invest the Central Board with all or any of the following powers? What other powers would you propose, in the place of or in addition to the following? Would you impose any restrictions on the exercise of any of its powers by the Board, if so, what?—

- (i) to arrange for the annual audit of every endowment, trust, or other similar institution,
- (ii) to inspect or arrange for the inspection of such endowments, trusts and institutions periodically,
- (iii) to sanction the budgets of endowments, trusts or institutions, and the investment or utilization of surplus income, if any,
- (iv) to take such other steps as may be necessary to ensure that the property of every trust or other such institution is properly dealt with and its income is applied to the objects for which it is meant,
- (v) to exercise general superintendence over local boards and committees,
- (vi) to accept, hold and administer trusts of a religious, charitable or educational nature,
- (vii) to settle schemes of management for endowments, trusts or such other institutions, or amend schemes framed by it or by other authority,
- (viii) to consider, discuss and pass resolutions about any matter relating to such endowments, trusts, and institutions in consultation with Sampradayik organizations, if any,
- (ix) to keep a register of endowments, trusts and other religious and charitable institutions or funds,
- (x) to appoint or sanction the appointment of non-hereditary trustees,
- (xi) to take steps to ensure that the appointment of hereditary trustees (viz. the trustees of a religious endowment, succession to whose office devolves by hereditary right or by nomination by the trustees for the time being or is otherwise regulated by usage or is specially provided for by the founder so long as such scheme of succession is in force)



- is made in accordance with the prescribed mode and the person appointed possess the prescribed qualification,
- (xii) to appoint receivers in cases of dispute relating to succession of a hereditary trustee, where the property of an endowment is in danger, or to assume direct management till the settlement of the dispute or final decision,
  - (xiii) to order the restoration of trust property alienated without the previous sanction of the Board after summary enquiry, the party dispossessed being at liberty to seek legal redress within a prescribed time,
  - (xiv) to consider and sanction or reject applications praying for permission to alienate trust property,
  - (xv) to ensure that the *dharmic* side also of Hindu endowments is managed in accordance with *shastric* provisions, and for this purpose to act in concert with Sampradayik organizations, if any,
  - (xvi) to move the proper authorities in cases of malfeasance, misfeasance or non-feasance by trustees,
  - (xvii) to reject or sanction leave for withdrawing, compromising or referring to arbitration any question relating to an alleged endowed property, and
  - (xviii) to frame rules and prescribe forms and returns to regulate its own procedure and that of the Local Boards or the working of the endowments, trusts and other institutions or funds concerned.

24. Do you agree that the Board should appoint an Executive Committee and delegate some of its powers to the latter?

If not, what other alternative do you propose for conducting the work?

25. In case you agree, please state the constitution you propose for the Executive Committee and the powers that should be delegated to it.

26. Would you authorize the Board to appoint a committee or committees for any class or classes of endowments, and delegate some of its powers to it or them?

If so, would you impose any restrictions?

### III.—Local Boards.

27. Do you consider that the establishment of Local Endowment Boards will secure better and more effective working and supervision?

28. Should these Boards be constituted on lines similar to those of the Central Board, or partly nominated and partly elected or wholly elected by the Central Board itself?



29. If the Local Boards are to be elected bodies, would you confer on them the power to elect the members of the Central Board or to elect certain representatives to sit on the Board?

30. (a) Should the Central Board delegate some of its powers of control over endowments, trusts and other local institutions with an income below a prescribed amount to Local Boards?

(b) Should Local Boards also serve as the agents of the Central Board?

(c) Would you suggest some other powers for Local Boards?

31. (a) Do you agree that uncared for public places of worship should be looked after?

(b) Do you think this work can be done better by Local Boards than by the Central Board?

32. What arrangement would you propose for providing funds for carrying on the work of the Central and the Local Boards?

33. Would you make the term of tenure of the Local Boards similar to that of the Central Board?

#### *IV.—Sampradayik organizations.*

34. Do you consider it advisable that the Board should take the help of the various Sampradayik organizations to help it in the supervision and better management of endowments, temples, trusts and other institutions, and to see that their aims and objects are properly carried out?

35. In order to achieve this object would you propose for the various Sampradayas to be organized?

36. If so, how? Kindly mention the various Sampradayik organizations which you would like to take help from?

37. Do you think it necessary that there ought to be co-ordination among the various Sampradayik organizations in order to secure better supervision and management of the endowments, temples, and trusts belonging to the various Sampradayas?

#### **D.—RECORD OF RIGHTS.**

38. Would you require the Protector of religious and charitable endowments or the Central Board to maintain a record of all public Hindu religious and charitable endowments, trusts and other institutions, and to arrange for its revision and publication like other public records from time to time?



39. Do you think that in case of each endowment, trust or other similar institution, it is necessary and proper to compile an authoritative record of rights, showing—

- (a) qualifications, spiritual and secular, required of the *mahant* or trustee, *shebait* or *adhikari* or manager,
- (b) the rule about succession or appointment,
- (c) the rights, duties and qualifications of various other classes of persons rendering service to the endowment,
- (d) the objects on which the income is allowed to be spent or surplus to be applied,
- (e) the sources of private, personal income of the *mahant* or trustee and other persons mentioned in clause (a),
- (f) customary services and celebrations, and
- (g) such other particulars as may be prescribed?

40. Do you think such a record of rights, after it is duly verified before and accepted by the prescribed authority, should be given the force of lawful custom, or be conclusive proof of what it records?

41. (a) Should the Central Board compile such a record of rights in consultation with the *mahants* and Sampradayik organizations concerned, if any?

(b) Would you prescribe any other authority? If so, which, and why?

42. What other remedy would you suggest for regulating the succession of trustees or *shebait*s or managers in cases—

- (a) where the office is hereditary, and
- (b) where the office is not hereditary, to reduce the possibilities of disputes about succession?

#### E.—LEGISLATIVE ACTION.

43. Are you in favour of a legislative enactment to regulate the machinery required for the efficient control and supervision of Hindu endowments? If not, what other alternative would you propose?

44. Where the trustees, *shebait*s or managers have died, would you be in favour of extending the provisions of the Religious Societies Act (I of 1880) to Hindu religious and charitable endowments and trusts and other institutions, so as to allow the beneficiaries by a general meeting to elect new trustees, *shebait*s or managers for the same and make such election binding by getting the resolution duly registered?



45. Do you think that the Religious Endowments Act (XX of 1863) has proved ineffective to prevent the wastage of property or income and to ensure the better management and protection of endowed properties and trusts and other institutions? If so, what amendments or proposals you have in view to rectify the omission?

46. Have the provisions of section 92 of Act V of 1908 proved ineffective or inadequate for the purpose of protecting properties in the hands of alienees or trespassers? If so, do you propose any amendment therein?

47. Do you think that Act XIV of 1920 has been ineffective or inadequate to secure the due rendition of accounts and has facilitated the setting up of false claims in evasion of public rights by persons in possession?

48. Has article 134 of the Indian Limitation Act hampered the protection of endowed or trust property, wrongfully mortgaged or alienated by trustees? If so, what remedy would you suggest for the due protection of trust property in such cases?

49. Should any legislative measures, you suggest, be supplementary to the existing provisions under Act XX of 1863, Act XXI of 1860, section 92 of Act V of 1908, and Act XIV of 1920 or in supersession of those provisions, and to what extent you propose to supplement or supersede them?

50. In order to prevent fraud, do you think it necessary that the Protector of religious endowments or the Central Board should be given notice of all suits in which the question for decision is whether a particular property forms part of a Hindu endowment?

51. Is it necessary for the same reason that no such suit should be allowed to be withdrawn, compromised, or referred to arbitration without the previous sanction of the Board or the Protector of endowments?

52. Do you consider it necessary that in order to avoid multiplicity of suits involving the same or almost the same question, the transferees of endowed property should be joined as co-defendants in a suit based on malfeasance, misfeasance or non-feasance by a trustee?

53. Do you consider it proper that no alienation of an endowed property should be considered valid unless previously sanctioned by the Board or the Protector of religious and charitable endowments, and trusts, if appointed?

54. In order to ensure speedy and cheap disposal of such suits and uniformity of decisions, do you think it expedient to set up a



special judicial tribunal to decide cases of malfeasance, misfeasance and non-feasance against trustees of alleged endowments and questions of succession to hereditary endowments?

55. Would you like the tribunal to be constituted by the Government out of a panel of persons nominated by the Central Board? If not, what other constitution would you propose?

56. In your opinion who should bear the expenses of the tribunal—the Government, the Central Board or both in equal shares?

57. Would you prescribe the following or any other qualifications for a member of the tribunal :—

(a) he must be a Hindu ;

(b) must be at least a district judge of five years' standing or a vakil or advocate of ten years' standing, or a judge of High Court or Chief Court;

(c) or must have been on the date of his retirement from Government service a High Court or Chief Court judge, or a sub-judge of ten years' standing.

58. Would you make the decision of the tribunal appealable or not?

59. (a) If the decision of the tribunal is made appealable, should the appeal lie to the highest court of appeal in the province only or to the Privy Council only, or to both, one after another?

(b) If so, should an appeal lie (i) in all cases or (ii) in a specified class of cases?

(c) If the latter, decision in what class of cases would you make appealable?

60. Would you prescribe a fixed court-fee in suits and proceedings under the proposed Act, or would you prescribe *ad valorem* court-fee?

61. Would you make the Civil Procedure Code applicable to suits and proceedings before the tribunal or would you prescribe a special procedure? If the latter, what procedure would you prescribe?

62. Would you or would you not bar the jurisdiction of civil courts in all cases cognizable by the tribunal?

63. Would you like it to be provided in the Act that the Registration department should send to the Central Board free of charge authentic copies of deeds creating Hindu endowments, and the Registrar of Co-operative Societies should similarly supply copies of articles and memoranda of association of similar societies registered by him?



F.—DHARMADA AND OTHER FUNDS.

64. What are the incidents of the custom or usage of trade relating to the deduction, levy, or collection of *dharmada* dues in your locality?

65. Is the *dharmada* set apart by traders and bankers, out of the price charged from customers, or from their own profits, or is it realized from the customers in addition to the price, in order to form a nucleus or part of a fund to be devoted to public, religious or charitable uses?

66. Are the objects of the levy or collection specified or left to the discretion of the trader charging or collecting the *dharmada*?

67. (a) At what rate is it charged?

(b) Who controls it?

(c) How and on what objects is it spent?

(d) Who keeps its accounts?

(e) What safeguards exist for preventing its misappropriation or misuse?

68. Are you satisfied with the existing control and management of the *dharmada* fund, charged by commercial firms from customers?

69. Would you or would you not bring such *dharmada* funds under the operation of the proposed Act?

70. (a) Do you think the management of this fund will improve if it is placed under the control of local traders' organizations?

(b) Should these organizations be separate for each trade in a particular locality or should one organization be formed in each local area?

(c) What constitution, powers and duties would you prescribe for such organizations?

71. (a) How would you regulate the relations between these organizations and the Central Board, and the organizations *inter se*?

(b) Would you authorize these organizations to select a certain number of members to the Central and Local Boards?

G.—MISCELLANEOUS.

72. Should the Protector of religious and charitable endowments or the Central Board require each endowment, trust or other institution registered by it to set up and maintain an inscription, engraving, tablet, or notice in a prominent situation at its principal seat or office, mentioning the name of the endowment or institution and its registration by the Board?



73. Have you got any other suggestion to make for the better governance, administration and supervision of the public religious and charitable endowments, institutions and funds of the Hindu community, including *dharamshalas*, *dharamdayas* and other institutions of the like nature.

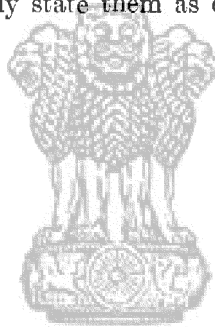
*Appendix.*

It is hoped that those gentlemen who cannot find the necessary time to answer the detailed Questionnaire, will be so good as to reply to the few general questions that are set forth below :—

- (1) Are you of opinion that the existing public religious and charitable endowments, institutions and funds of the Hindu community, including *dharamshalas*, *dharmdayas* and other institutions of the like nature, are not invariably managed in such a way as to secure the greatest public benefit for the Hindu community, or that endowed properties are at times squandered, or wasted, or their income applied to objects for which they are not intended?
- (2) If so, what measures would you suggest for their improvement?
- (3) Do you consider it desirable that the post of the Protector of religious and charitable endowments or trusts should be created to look after and help in their management and protection. Or, do you consider that the constitution of a Central Board will effect that purpose better?
- (4) If you are in favour of a Protector of endowments being appointed, how should his appointment be regulated, and what should be his qualifications and powers?
- (5) If you are in favour of a Central Board, how should the Board be constituted? What should be the number of its members, their qualifications and powers?
- (6) If the Board is to be elected, who should be the electors and how would you provide for the representation of the various Hindu sects and interests in the Province?
- (7) What period of office will you prescribe for the members of the Central Board? Should its chairman be elected by it or nominated? In the latter case, who should have the power to nominate, and for what period should he remain in office?



- (8) Do you *think* it expedient to set up a special judicial tribunal to decide cases of malfeasance, misfeasance and non-feasance against trustees of alleged endowments, and questions of succession to hereditary endowments? If so, would you make the decision of the tribunal appealable or not? In case of an appeal, should the appeal lie (i) in all cases or (ii) in a specified class of cases?
- (9) If the decision of the tribunal is made appealable, should the appeal lie to the highest court of appeal in the province only, or to the Privy Council only, or to both one after another?
- (10) If you have any other suggestion to make for securing the better governance, administration and supervision of the Hindu religious and charitable endowments, trusts and funds, etc., kindly state them as clearly as possible.



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**APPENDIX C.**

*Places in the United Provinces visited by the Hindu Religious and Charitable Endowments Committee and its sub-committees.*

Places visited.	Date,	Committee or sub-committees.
1. Garhwal district ..	June 1, 1928 to July 20, 1928	Sub-committee.
2. Fyzabad .. ..	November 23 to 26, 1928 ..	Do.
3. Benares .. ..	November 28 to 30, 1928 ..	Do.
4. Brindaban .. ..	December 27 and 28, 1928 ..	Do.
5. Muttra .. ..	December 29 and 30, 1928 ..	Do.
6. Mirzapur .. ..	February 2 and 3, 1929 ..	Do.
7. Allahabad .. ..	February 15 to 17, 1929 ..	Committee.
8. Lucknow .. ..	February 21, 1929 ..	Do.
9. Do. .. ..	February 22, 1929 ..	Do.
10. Do. .. ..	February 23, 1929 ..	Do.
11. Do. .. ..	February 24, 1929 ..	Do.
12. Do. .. ..	February 25, 1929 ..	Do.
13. Do. .. ..	March 4, 1929 .. ..	Sub-committee.
14. Do. .. ..	March 6, 1929 .. ..	Do.
15. Do. .. ..	March 19, 1929 .. ..	Do.
16. Do. .. ..	March 20, 1929 .. ..	Do.
17. Do. .. ..	March 21, 1929 .. ..	Do.
18. Kurwi-Chitrakot ..	March 8 to 10, 1929 ..	Committee.
19. Cawnpore .. ..	March 12 to 14, 1929 ..	Do.
20. Hardwar .. ..	March 27, 28 and 29, 1929 ..	Do.
21. Rishikesh .. ..	March 30 and 31, 1929 ..	Do.
22. Dehra Dun .. ..	April 1 and 2, 1929 ..	Do.



## APPENDIX D.

## Report of the Garhwal Sub-Committee.

1. *Introductory.*—In accordance with Resolution No. 1(i), dated April 15, 1928, of the Hindu Religious and Charitable Endowments Committee, we left for Garhwal on June 1, 1928 and returned on July 20, 1928. Very cordial receptions, in which the *mahants* and *Rawals* took prominent part, were accorded to us everywhere; and at all important places of pilgrimage addresses of welcome were also presented, some of which appear in Part II of the Record; the *pandas* and the *Rawal* of Kedarnath presented addresses to individual members at Kedarnath and Ukhimath respectively. The sub-committee attended over a score of social functions arranged for them. Of the 215 witnesses (vide Part I of the Record) examined by us, 110 are intimately connected with the management of temples, 73 being *pandas*, 30 *mahants* and *mathadhipatis*, and 7 *pandits* and *shastris*. Among the remaining witnesses are 7 lawyers, 19 Government officers and 79 others. We visited about 32 temples and 19 other foundations of different categories; our detailed observations on most of them are given in our Inspection Notes contained in Part III of the Record.

## A.—ENDOWMENTS IN GENERAL.

2. *Condition of management.*—All the witnesses agree that endowments are generally mismanaged, as individual trustees are invested with absolute powers, on the arbitrary exercise of which there is not effective restraint. Our own observation of the foundations visited in the district corroborates this. Our observations on the two most important temples in the district, those of Shri Kedarnath and Shri Badrinath, appearing elsewhere, also bear this out. We may, however, refer to Shri Kamleshwar at this place. This temple, in a flourishing town on the pilgrim route, owns *gunth* villages and derives a fair income from offerings; but the temple services are neglected and the buildings, extensive and imposing, are in ruins and extremely unclean, although the *mahant* himself lives in a lordly style. The granaries, said to be maintained for feeding the *sadhus*, were found empty. The *mahant* keeps no account of the income and expenditure. But we are glad to add that the temple of Kiyun Kaleshwar near Pauri. Sangat of Guru Ramrai and Shri Parasnath temple of Jains at Shrinagar, Rudranath temple at Rudra Prayag, and Gopeshwar temple



near Chamoli are very efficiently managed. The last but one has no endowment for its support. The rich treasury of the last named was depleted by its last *Rawal*. Its present *Rawal*, however, keeps proper accounts, is well educated, and has by his charming personality, *tapasya* and *vidya* surcharged the whole atmosphere with spirituality.

3. *General suggestions for improvement.*—All the witnesses expressed a strong desire for setting up a machinery by statute to put an end to the present abuses. Some of the prominent *mahants* supported this idea; among them may be mentioned the *Rawals* of Kedarnath and Gopeshwar, the *mahant* of Swarga Ashram and Swami Nijanand and Narmadanand Ji. The witnesses are almost unanimous that the Government should have nothing to do with the control of the management of endowments, nor should the controlling authority be exclusively secular. The consensus of opinion is in favour of the following suggestions :—

- (1) There should be one Central Board for the purpose of exercising supervision and control over all the endowments in the province. It should be composed of the representatives of—

- (a) principal Sampradayas (*sadhus*),
- (b) the general public,
- (c) the ruling chiefs, who maintain or contribute liberally towards the maintenance of endowments in the province, and
- (d) other religious associations in the province.

Members should be sanatanists and religious minded.

- (2) Local committees and temple committees for big temples having large incomes should also be appointed with similar constitutions.

- (3) Important Sampradayas :—

- (i) Sanyasis,
- (ii) Chatur Sampradaya Vaishnavas,
- (iii) Followers of Shri Ramanujacharya,
- (iv) Udasis,
- (v) Nirmalas,

should each have an organization of its own, and other minor Sampradayas should have one organization.

- (4) Record-of-rights to be prepared for all endowments.



(5) A special judicial tribunal should be constituted on the lines suggested in the questionnaire for deciding disputes relating to endowments.

(6) No new temple should be allowed to be built unless adequate provision has been made for its upkeep.

4. We note below a few special suggestions made by individual witnesses which, in our opinion, deserve special notice :—

(1) *Some special suggestion.*—Swami Avadhuta Prakash of Swargashram (witness No. 2) suggests the foundation of Sampradayik Arbitration Boards to settle internal dissensions, and a Central Board selected by the former to settle inter-Sampradayik disputes.

(2) Pandit Brindavanji Dhiani, Member, District Board, Pauri (witness No. 10), would place a big temple under a committee of the men of the Sampradaya to which the temple belongs; similar temples in the vicinity would be controlled by the same committee. These temple committees should be supreme in religious matters.

(3) Pandit Baijnath Shastri, M.A., LL.B., a Deva Prayagi Panda (witness No. 12), is of opinion that the Central Board should have two branches, Sampradayik and Public, the former to be elected by the Sampradayas having a membership of more than 20,000. The Public branch must act as an advisory body, except in secular matters in which its authority should be supreme, subject to the veto of the Sampradayik Chamber. In case of veto there should be a joint sitting, and the joint decision should be final. A judge of the special tribunal should have the additional qualification of being a Shastri or an Acharya, or must pass an examination in Sanskrit to be held by the Central Board.

(4) Lala Premlal Sah Sahib, Officiating Deputy Commissioner, Pauri, Garhwal (witness No. 18), favours separation of temporal and spiritual functions in temples. The Central Board should be supreme in the former.

(5) Pandit Bhola Dutt Pant, B.Sc., LL.B., M.B.E., Pauri, Deputy Collector (witness No. 22), is against Central and Local Boards, but he favours the appointment by the Government of an executive officer for each temple with an income of Rs. 30,000 per annum, and for groups of smaller temples of not more than 25 each. An advisory committee with the District Magistrate as President should also be appointed to advise the executive officer. Incompetent heads of endowments may be removed by the District Officer on the recommendation of the advisory committee, subject to right of appeal to the tribunal.



An advisory committee should consist of 10 to 20 members, partly nominated by the Sampradayas and partly elected by the members of the Municipal and District Boards, Town and Notified Area Committees.

(6) Pandit Anasuya Prasad Bahuguna, B.Sc., LL.B., Pauri (witness No. 23), would invest the Sampradayik organizations with the power to appoint and dismiss the spiritual heads.

(7) Pandit Pitambar Dutt Pasbola, B.A., LL.B., Advocate, Pauri (witness No. 25), would divest religious heads of secular management, which should remain in the hands of the persons appointed by the Central Board. Religious heads should be appointed in accordance with the prevailing custom and, if no qualified person be available, the Board may make a suitable appointment.

(8) Pandit Pitambar Dutt Pant Sahib, Civil Surgeon, Garhwal (witness No. 26), says the Central Board should also have the power to look to the appointment of spiritual heads, subject to the traditions of the particular Sampradaya to which the institution belongs. It should be provided by law that the Board should constitute sub-committees of different Sampradayas, and such sub-committees should decide about the spiritual affairs of their respective Sampradayas.

(9) Thakur Praduman Singh, Deputy Collector and Assistant Settlement Officer, Garhwal (witness No. 31), says :—"Endowments should be classified into major, minor and petty. The powers of the Central Board in respect of petty and minor endowments may be delegated to Local Boards." He would make a Sampradayik organization consist of all *mahants*, *mathadhish* and their successors-designate, trustees of Sampradayik endowments, and an equal number of other persons of the Sampradaya.

If a Sampradaya fails to set up its organization, the Board may constitute it and frame the articles and memorandum of association. In his opinion the following Sampradayas should be organized :—

Sanyasis,  
Bairagis,  
Vaishnavas other than Bairagi,  
Udasis,  
Nirmalas,  
Jain Swetambers,  
Jain Digambers,  
Sikhs and others of minor importance.



(10) Rai Bahadur Pandit Tara Dutt Gairola Sahib, M.A., Pauri (witness No. 32), thinks it an insult to the Hindu community to say that piety and executive capacity cannot go hand in hand in a *mahant*. In his opinion the duties of a sanyasi or a brahmchari *mahant* are, according to shastras, similar to those of a bishop. He suggests the formation of a provincial ecclesiastical service from which these *mahants* should be recruited. The Provincial Board should control the service. This service should be recruited from among the graduates of universities of the province, after they have gone through a course of training. Brahmans, Kshatriyas or Sanyasis or Biraktas of any Sampradaya should be eligible for recruitment. He is not in favour of separate committees for each temple, as honorary members do not take interest in the work, and only persons having vested interests will be found, and no respectable *mahant* will consent to serve under such a committee. He is against the present practice of treating the office of a *mahant* as hereditary. All hereditary offices should be abolished. He is against the constitution of a special tribunal because he thinks it will be costly and be ignorant of local matters.

(11) Lala Manoharlal, Shrinagar (witness No. 36), makes one interesting observation that endowed villages were confiscated by the British Government, and 20 years' income was given to the *mahants* of the temples by way of compensation. Those temples whose *mahants* refused to accept this offer still remain, viz., Kamleshwar, Laxmi Narayan, Bhairon Nath, Sital Devi, Kapil Muni and Badrinath (Shrinagar).

(12) Dr. K. P. Bhatnagar, Assistant Surgeon, Chamoli (witness No. 94), favours the appointment of an Executive Committee consisting of the President and four of the members elected by the Central Board. Three-fourths of the expenses of the special judicial tribunal should be borne by the Government and one-fourth by the Board.

(13) Shri Rawal Kedar Ling, Gopeshwar Mandir (witness No. 89), does not favour the idea of having local committees under the Provincial Board, but suggests that the Provincial Board should depute members to inspect endowments.

(14) It was also suggested by some witnesses that the Government should contribute towards the expenses of the proposed machinery, because it maintains Christian churches in India at public expense.



## B.—SHRI KEDARNATH.

5. Without recording our observations on the Kedarnath temple, which gives its name, Kedar Khand, to this part of the country, we think this report will be incomplete. We, therefore, briefly refer to it here before dealing with Shri Badrinath temple, to which we were asked to pay special attention.

*History.*—We visited the Kedarnath Temple on June 20, 1928. It is dedicated to Sadashiva, the invisible form of Shiva. Kedarnath, Tungnath, Rudranath, Madhmaheshwar and Kalpeshwar together form the Panch Kedar. The management of Shri Kedarnath foundation vests in the *Rawal* who is Lingayat, viz., Veershaiya Jangam ascetic with his headquarter at Ukhimath. The U. P. Gazetteer Volume XXVI, observes :—"There is little doubt that to Shankaracharya is due the re-establishment of the efficacy of pilgrimages to the two great shrines." Local tradition attributes the restoration of the temple of Bhagwan Shri Adi Shankaracharya. The presence of the Vaishnava images of Lakshmi, Shri Krishna, Garuda, the ten Avatars of Vishnu, Shri Krishna with the flute, and Anirudha, Shri Krishna's grandson, in the temples of Shri Kedarnath and Ukhimath also support this tradition.

6. *Rawal's position.*—The said Gazetteer observes further :—"The *Rawal* exercises temporal rather than spiritual authority over the affairs of the endowment. He never officiates himself at the shrine of Kedarnath, but appoints *chelas* to perform the service there and at the subordinate temples, himself remaining at Ukhimath." Our inquiry corroborates these views. The present *Rawal* has not paid even one visit to the temple during the last eight years.

7. *Present management.*—The sanitary condition around the temple leaves much to be desired. The admission fee of three pice per head is obnoxious to the pilgrims, as also the intense darkness of the temple. Supervision is very lax, and the offerings at the temple do not go intact to the treasury. The actual expenditure, incurred on temple services, is much less than that reported to the headquarters. To give contracts of collecting offerings, especially to non-Brahmans when they have to officiate as priests, may, from a purely business point of view, be profitable, but is revolting to the religious sentiments of the Hindus.

8. *Need for improvement.*—The statements of the *Rawal*, the manager and other temple servants, the report of the Auditor (Ex. 44) and our own inspection of the records show that all is not well with the accounts. Every *Rawal* must, according to *shastric* injunctions, remain



a celibate; in practice, however, this is seldom observed. Of some nine generations of *Rawals*, who have come from the *lingayat* sect, a majority have kept permanent concubines and have squandered the temple funds on them, their progeny and frivolous litigation. As a typical case of "celibacy" (?) we may mention the instance of *Rawal* Ganeshling, who died of tertiary syphilis. It can be said to the credit of the present *Rawal* that he has no permanent concubine, but whether he is or is not a celibate in reality is a question which we had better not answer. The management of the temple, although certainly improved during the régime of the present *Rawal*, is yet far from satisfactory. The present *Rawal* is spending some money on works of public utility, but it is nothing when compared to the resources of the temple. Unfortunately most of the income of the temple is still squandered and embezzled. The *Rawal* frankly admitted before us that on account of local influences and the regrettable condition of his employees, his best efforts could not achieve much.

The Tehri Darbar has also no effective control over the management of this temple; and we have come to the conclusion that the present scheme is highly unsatisfactory and wrong in principle. We shall consider a suitable scheme for this temple in connection with the Badrinath temple, for reasons which will be referred to later.

### C.—SHRI BADRINATH TEMPLE.

9. *Short history*.—Shri Badrinath temple is one of the four most sacred places of pilgrimage in India. Its greatness is extolled in the Mahabharat, the Skandh and other Puranas. Bhagwan's image is in Padmasan, as He appeared here for *yoga* and not *bhog*. The ravages of that arch-infidel time, or the bigotry of some *adharmic* cult that flourished in India about twelve centuries ago, demolished the temple and threw the image into the Alaknanda. Bhagwan Shri Shankaracharya found the image in Naradkund and installed it in the Gurudagupha, near the Taptakund, where it remained for about seven centuries, when, so the tradition goes, the Raja of Garhwal removed it to the present temple, built by him at the instance of Shri Varadarajacharya. The gold canopy of the temple is said to be the gift of the well-known Ahalya Bai. Homage is paid to this temple by Sanatanists, Jains and Buddhists.

10. *Income*.—Over fifty thousand pilgrims visit the temple annually. The annual income, according to Ex. 6, the report made by Rai Bahadur Pandit Tara Dutt Gairola in 1923 to Tehri Darbar, is Rs. 10,000 from Gunth villages, Rs. 500 from village Bansuliseri.



about a lakh from cash offerings and about Rs. 25,000 from offerings in kind. This is also borne out by Ex. 84/4 (budget of the Temple for 1926-27). But this is an under-estimate of the income, as the entire amount received is not entered in the account books; various new sources of income have recently been found, but the income therefrom enriches the *Rawal* at the cost of the temple. Some of them are, *archana*, the offering of *tulsi* leaves, *itr*, offering of scent, for each of which Rs. 5 are charged, and *abhishek*, worship with sandal paste, for which Rs. 52 were charged in 1923 and Rs. 101 are charged now. Pilgrims getting *abhishek* performed are provided with reserved seats in the temple, while those who offer thousands of rupees to the deity are hustled out immediately they have made the offering.

11. *Condition of buildings.*—In spite of such a huge income, the buildings of the temple are mostly in ruins. The structures surrounding the shrine, except the kitchen and the newly built temple of Lakshmi (to which we revert later), are dilapidated. The *dharamshalas* in Pauri itself are a heap of ruins; the few *kothis* that still stand shelter not poor, homeless pilgrims, but the private ponies of the *Rawal*, whose number, by the way, is much larger than a person drawing Rs. 100 a month can afford to keep. *Rawal's* palace, newly built at a cost of about Rs. 40,000, is in good order. The temple owns some *dharamshalas* on the route which are out of repair and have been let out to tenants.

12. *Condition of management.*—Serious complaints were made to us against the management of the temple by a number of witnesses. Considering the grave risk, involved in speaking against the *Rawal*—a fact, which was so forcibly brought to our notice during our visit, that we had to draw the attention of the local authorities to it—we think people must have become desperate to come forward with their grievances. For fear of prolixity we cannot deal with them in detail, but we proceed to notice briefly some of the complaints against the present management which are supported by documentary evidence and the statement of such witnesses as Rai Bahadur Pandit Brij Mohan Chandola, Rai Bahadur Pandit Tara Dutt Gairola (who is himself the legal adviser of the *Rawal*, and has two of his brothers-in-law and other relatives in his service), Pandit Govind Prasad Nautiyal, Vice-Chairman, Garhwal District Board, Pandit Baijnath Shastri, M.A., LL.B., Dr. Pant, Civil Surgeon, Pauri, Mr. S. Venkatachari, Thakur Ram Sarikh Singh, Brahmchari Narmadanandji, Dr. K. P. Bhatnagar of Chamoli, Dr. G. P. Bharadwaj of Badrinath and some near relations of the late *Rawal* and of the present *Likhwar*:—



(1) *Nazrana and other presents.*—Large sums of money are spent on *nazranas* and *dalis* to officials and entertainment of guests. This is called *sathkar*. A high Government official was recently presented a *dali* worth a few thousand rupees. "In practice", says Rai Bahadur Mr. Gairola, "it (*sathkar*) means the free rations given to all the Government servants such as the police, the employees of the Postal and Medical departments and big Government officials, who visit Badrinath or Joshinath during the whole period of their stay there, and the presents given to them and to other persons from the temple funds. This does not include the free *prasad* and rations given to temple officers." Presents to *Rawal's* favourites are also not uncommon.

(2) *Misappropriation.*—The *Rawal* and his subordinates misappropriate temple property in a variety of ways. A proper list of valuable offerings is not made. Gold and silver articles, to which any of them takes a fancy, are sold to him at ridiculously low prices. When offerings are made, the *Duriyals*, who receive them, manage by a clever trick to pass the money down their sleeves. Out of Rs. 2,000 sent by a gentleman from Sindh for feeding the poor, only Rs. 500 were credited in the account books. Money provided for the maintenance of Gayatri Maharaj (witness No. 117) was appropriated by the *Rawal* and he was left to starve. Cinema and cameras for the *Rawal* are purchased out of temple funds.

(3) *Lakshmi temple.*—In every temple of Vishnu an image of Lakshmi is kept in the kitchen, the idea being that she cooks *bhog* for him. As kitchen is closed to pilgrims, offerings are never made to that image. Recently the relations of Brahman temple servants, who are all Dimris, were allowed to remove the image from Shri Badrinathji's kitchen and to instal it in a new temple to the right of main shrine. The offerings and *atka*, etc., of Shri Lakshmi temple go to them. This adversely affects the income of Shri Badrinath, and is a sacrilege to boot.

(4) *Other instances of sacrilege.*—The *puja* is not performed in accordance with the Shastras. When a pilgrim pays for *archana*, it is performed in place of, and not in addition to, the regular morning worship. *Bhog* offered to Bhagwan is unclean, polluted and contains weevils (*ghun*). It is cooked in unclean vessels, washed in a pool which contains *Rawal's* washings. While performing *puja* the *Rawal* is sometimes busy in gossip with the Barwa or the Mahta Bhandaris. Temple servants were found smoking in Garuda Gupha. Close to the Taptkund, the *Likhwar* built a privy in 1925 with a sullage outlet into the Naradkunda. Thakur Bhopal Singh, Sanitary Inspector, one of the very few who do not accept *sathkar* from the temple, made a report for its removal, which was supported by the Health Officer, but the privy still stands.



Another similar latrine is put up this year by the *Naib-Likhwar*. Some temple servants are addicted to wine and sometimes enter the temple premises in a drunken state. There is evidence that some of them do not even abstain from beef. The *prasad* is not distributed free, but sold. Where even some Hindus, though barefooted, are not allowed, Europeans with shoes on are freely admitted.

(5) *Sanitation*.—Sanitation is simply disgraceful. The half-cooked *bhog*, prepared by dirty cooks, in a kitchen with stinking drains, in unclean vessels, is the main cause of diarrhoea and dysentery among the pilgrims; most of such cases, treated by the Medical Officers, come from Badrinath. The Taptkund and its precincts, the compound of the temple and the temples at Joshimath and Pandukeshwar were all dirty. The *pujari* of one of the temples, who was suffering from a highly infectious skin disease, distributed *charanamrit*.

(6) *Pilgrims*.—The pilgrims are roughly treated. Without tipping the gatekeeper admission is difficult. One is soon hustled out of the temple unless one has a long purse and loosens its strings. To say the least of it, female pilgrims are not treated with that civility and courtesy which their sex demands. We regret that we ourselves noticed some such instances. Servants who remain in or about the temple are generally undesirable from a moral point of view.

(7) *Rawal*.—The *Rawals* in general, as evidence shows, have been undesirable persons from both the spiritual and the secular points of view. They invariably kept concubines, knew little Hindi and Sanskrit, and could hardly keep and check accounts. There had been cases of a *Rawal* going to jail for crimes involving moral turpitude, yet retaining the office. The present *Rawal* too, like his predecessors, does not know Hindi and Sanskrit well and cannot keep or check accounts, but, unlike them, does not openly keep a concubine, although he is notorious for his sex errors. Naturally he cannot be otherwise. Place a real saint in those surroundings, in which the *Rawal* is, and he will soon be transformed into a sinner. Impulses of blind youth, intoxication of untold wealth, absence of all control, and seduction by persons surrounding him are hard to resist for any one, and much more so for the poor *Rawal*, who generally is a man of little education and less culture, removed hundreds of miles away from home, in a country the language of which he cannot speak, and left at the mercy of unscrupulous people, whose own interest urges them to keep the *Rawal* under their thumb. The present *Rawal's* statement in the Hindu Sansar case, as compared to his prior statement to respectable witnesses regarding the same facts, proves that he has little regard for truth.

The *Rawal's* own brother is the *Naib-Rawal*. In case of a death in their family *puja* will have to be suspended during the period of *sutak*.



We gave full opportunity to the *Rawal* to place his point of view before us, but we regret that under instructions from the Tehri Darbar he did not think it proper to give his views and show his records to us.

13. *Suggestions for improvement.*—The witnesses are almost unanimous that the present scheme is responsible for gross mismanagement and that early steps should be taken for its alteration. Separation of spiritual and secular functions, placing the former under the *Rawal* and the latter under a managing committee, elected or nominated by the Tehri Darbar and the Government or the proposed Central Board, or under an officer with or without an advisory committee, is the general trend of suggestions made to us for improving the management of the temple. One witness suggests that the Tehri Darbar should manage the temple, while another is for only nominal Darbar control. Difficulties have been pointed out in the smooth and satisfactory working of a committee of local men; some witnesses on the other hand would have no outsiders on the committee. Direct control by the proposed Central Board and the relegation of the *Rawal* to his former position as a *pujari* is also suggested. The more orthodox are for the resuscitation of the original system, whereunder the Shankaracharya of Jyotirmatha was the spiritual head of the Badri, Kedar and other temples, and the *Rawals* were only *pujaris*; for temporal affairs these witnesses would now have an elected committee with Shankaracharya as President.

14. *Our recommendation.*—We are definitely of opinion that the present scheme is the negation of a scheme. Under it the *Rawal* is all in all, he takes shelter under the Tehri Darbar when it is convenient to him, and defies it with impunity when it suits his purpose. If it continues to remain in force, incalculable injury will be done, as is being done now to the temple and the Hindu community. In view of the daring statement, made by the *Rawal* before some very respectable and trustworthy witnesses, that when he will apprehend his removal he will decamp with all the jewellery and cash, which according to him amounts to the value of Rs. 3 lakhs in the temple treasury and leave the temple a pauper, and the manner in which temple funds are being wasted, we strongly recommend early action for amending the scheme.

We have given our most anxious consideration to the suggestion made to us for amending the scheme. In order to get at the true religious principles, on which the scheme ought to be based, we have not only to consider the evidence before us, but we have also to seek guidance from religious works and ancient tradition. If we do so, we find that the two temples of Badrinath and Kedarnath were integral parts of Jyotirmatha, the northern pontifical seat, founded by Shri Shankaracharya, and in fact the present *Rawals* were only *pujaris* of the two temples, who after the decline of the *gaddi* became independent of it.



We think that the religious feelings of a vast majority of the votaries of these two temples will be satisfied if the *Math* is revived and the authority of Shankaracharya established. Apart from this, from our own experience, we feel that these two temples, situated in the Garhwal district, can efficiently and economically be managed by one authority residing in Garhwal, provided the authority has spiritual sanction. We therefore, recommend that both the temples should be placed under an Acharya acting with a committee to be so constituted as to represent the various interests connected with the temples. Now the difficulty arises about the appointment of the first Acharya, but for this we have got the authority of Mathamnaya Setu, which is the charter of the four Mathas, of which Jyotirmatha is one. We cannot find a better solution of this difficulty than to follow the injunction laid down therein. Therefore, we recommend that the first Acharya should be appointed by the majority of the present reigning Shankaracharyas. We have not resorted to election, as laid down in the Mathamnaya, for it is difficult just at present to have a spiritual electorate as desired therein.

The Acharya-in-Committee shall be responsible for the efficient management of the temples, and shall appoint one manager for each temple to be in charge of the secular management thereof, subject to the control of the Acharya-in-Committee, and a *Rawal* for each temple to carry on *puja* in accordance with the Shastras under the guidance of the Acharya.

We recommend that a scheme, based on these lines, be framed by the committee to replace the schemes in force, and for this necessary action under section 92, Civil Procedure Code, be taken. But we are afraid that this will take long to materialise, and there is every danger, as is evident from what we have said above and from very trustworthy information we have in possession, that if time is lost in anticipation of this scheme, serious loss to the temple and undesirable exhibition of public feeling, fraught with serious consequences against the present management, may ensue. To avoid all this, we further recommend that an official receiver be appointed for these temples before the commencement of the next pilgrim season and speedy action be taken to get the scheme sanctioned as suggested above.

R. S. NARAYANA SWAMI,  
*Chairman of the Garhwal Sub-Committee.*  
 BRIJNATH SHARGA,  
 NEMI SARAN JAIN,  
 MATHURA PRAŠAD NAITHANI,  
*Members of the Garhwal Sub-Committee..*

*Dated February 28, 1929.*



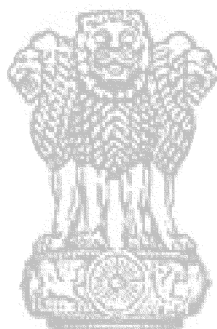
( 30A )

After signing the report Pandit Mathura Prasad Naithani wrote the following remarks :—

“With reference to paragraph 12 (7) of this report I have get reasons to hold the Home Member of Tehri alone responsible for giving wrong advice to *Rawal*.”

M. NATTHANI.

*Dated February 28, 1929.*



सत्यमेव जयते



## APPENDIX E.

## Report of the Mirzapur Sub-Committee.

A sub-committee of the Hindu Religious and Charitable Endowments Committee consisting of Hon'ble Raja Moti Chand, C.I.E., and Rai Bahadur Pandit Kanhaiya Lal visited Mirzapur and held inquiries into the condition and management of the Hindu religious and charitable endowments on February 2 and 3, 1929. The sub-committee examined 23 witnesses. They generally expressed dissatisfaction with the management of most of the religious and charitable endowments and trusts existing in the district, and referred to cases where the land belonging to these trusts had been alienated by *mahants* for their personal benefit, and turns of worship had been mortgaged with possession or transferred by the holders and had passed to persons of other faiths. Some of the *mahants* claim the estates held by them as their private property.

Asked why the public had taken no action to prevent the wastage or the transfer of turns of worship, they said that the public were unwilling to take the risk and responsibility of litigation. They recommended that a Central Board, with a whole-time salaried President, and district committees, should be constituted to protect and look after these endowments and trusts.

The sub-committee visited certain *ghats* and temples at Mirzapur and the temple at Bindhyachal. Most of the temples at Mirzapur were built of stone and had exquisite stonework, but there were small trees growing on the *shikhars* or turrets, which if allowed to grow on would damage the temples, but no one was taking steps to have them removed. The *ghats* were in many places undermined or being cut up by the current, and were so damaged that they might at places be a source of danger to the bathers. One *ghat*, now used by women bathers, with its verandahs or *dalans*, is a work of exquisite beauty, but a *peepal* tree was found growing there too, and has not been removed.

In the heart of the city there is another unfinished temple, containing stone work of exquisite beauty, and it is a pity that the heirs of the founder have found themselves unable to complete it or to instal a deity there. The building is fit to be used for some public purpose.

On the road leading to Bindhyachal temple, there is a large enclosure, known as the Gobardhan *gaushala*, where cattle are kept and fed. Behind it and not far from the Bamanji temple are standing two



temples of stone, which have been partly dismantled, and the idols or deities which were installed therein seem to have been removed and placed outside on the ground among a heap of exquisitely carved stones, apparently removed from the temples. It was stated that this vandalism was done by Mahant Parmanand Gir, the zamindar of the place, or under his direction by his men; but in the absence of reliable information, it is difficult to fix the responsibility. The *mahant* should be asked to restore the temples, or to remove at all events the idols and place them in some existing temple close by to stop the sacrilege.

The Bindhyachal temple is situated in a crowded locality, and the entrance to the inner shrines is through a window, where there is hardly room for more than half a dozen worshippers to stand at a time. The *pandas* were asked whether they would like to remove the front wall to provide facilities for men and women worshippers, and easier access, but they were not willing to adopt that course, or to make any alterations to facilitate access and worship, particularly when the congregation, as on *mela* days, was very large. There are 16 families of *pandas* in charge of the temple, and 50 families of Chhappar Bands, whose duty it is to bring customers to the *pandas*. These Chhappar Bands receive a share in the offerings of the day according to the settlement arrived at between them and the *pandas* for whom they work.

A common source of trouble between the *pandas* and the Chhappar Bands is the employment of undesirable agents by them to bring the customers from the railway station. The *pandas* keep no accounts, because, they say, the turns of worship are divided, and the responsibility for cleaning and lighting and payment of the staff employed for the purpose falls on the *panda* who holds that turn, irrespective of the income from offerings, which varies each day. The sanitation, repair, and improvement of the temple and its surroundings are thus neglected and require attention.

MOTI CHAND, C.I.E.

KANHAIYA LAL, RAI BAHADUR.

Dated February 4, 1929.



**APPENDIX F.***List of persons examined by the Committee.***GARHWAL.**

<b>S. no.</b>	<b>Name and address.</b>
1.	Aditya Rama, Pandit, Joshimath.
2.	Amba Datt, Pandit, Gauri Kund.
3.	Anand Prasad, Pandit, Badrinath.
4.	Anand Puri, Gosain, Shrinagar.
5.	Ansuya Prasad Bahuguna, Pandit, Pauri.
6.	Avadhut Prakash, Swami, Swargashram.
7.	Badri Datt, Pandit, Joshimath.
8.	Badri Prasad, Pandit, Devaprayag.
9.	Baijnath Shastri, Pandit, Devaprayag.
10.	Bakhtawar Singh, Thakur, Joshimath.
11.	Balak Ram, Thakur, Pauri.
12.	Bali Ram, Pandit, Gulab Koti.
13.	Bali Ram Dimri, Pandit, Badrinath.
14.	Balmukand Bhatt, Pandit, Badrinath.
15.	Banarsi Das, Lala, Badrinath.
16.	Behari Lal, Lala, Pandukeshwar.
17.	Bhagirath, Pandit, Kedarnath.
18.	Bhatnager, K. P., Assistant Surgeon, Chamoli.
19.	Bhawani Prasad Panda, Pandit, Kedarnath.
20.	Bhola Datt Kala, Dr., Rai Sahib, Shrinagar.
21.	Bhola Datt Pant, Pandit, Pauri.
22.	Bhola Singh Negi, Thakur, Chamoli.
23.	Bimla Nand Pande, Trijugi Narain.
24.	Bishambher Dass, Pandit, Badrinath.
25.	Bisheshwar Prasad, Pandit, Okhimath.
26.	Brahmanand Thapliyal, Pandit, Pauri.
27.	Brijmohan Chandola, Rai Bahadur, Pauri.
28.	Brindaban Dhyani, Pandit, Deoprayag.
29.	Chanda Prasad, Pandit, Badrinath.
30.	Deogiri Mai, Okhimath.
31.	Devi Prasad Panda, Pandit, Guptakashi.
32.	Devaki Nandan, Lala, Swargashram.



S. no.	Name and address.
33.	Dewakar Datt, Pandit, Agastmuni.
34.	Dhyan Singh, Thakur, Okhimath.
35.	Din Dayal, Pandit, Devaprayag.
36.	Fateh Singh, Thakur, Sanitary Inspector, Guptakashi.
37.	Fateh Singh, Thakur, Okhimath.
38.	Gaya Prasad Bharadwaj, Dr., L.M.P., Badrinath.
39.	Girdhari, Pandit, Adi Badri.
40.	Girdhari Lal, Pandit, Nandprayag.
41.	Girja Shankar Kotiyal, Pandit, Devaprayag.
42.	Gokul Dev, Pandit, Guptakashi.
43.	Gopal Iyengar, N. T., Badrinath.
44.	Govind Lal Shah, Lala, Joshimath.
45.	Govind Prasad, Pandit, B.A., LL.B., Shrinagar.
46.	Govind Prasad Notiyal, Pandit, Badrinath.
47.	Govind Prasad Raola Shastri, Pandit, Shrinath.
48.	Govind Ram Bhatt, Pandit, Pipal Koti.
49.	Govind Sharma Mahant, Pauri.
50.	Gunanand, Pandit, Tungnath.
51.	Gyan Singh, Thakur, Agastmuni.
52.	Hans Rama Singh, Thakur, Subedar Major, Pauri.
53.	Hari Shankar, Pandit, Kedarnath.
54.	Hari Singh, Thakur, Agastmuni.
55.	Hira Singh, Thakur, Agastmuni.
56.	Hukum Singh, Thakur, Phata.
57.	Ishwari Datt Kala, Pandit, Rudraprayag.
58.	Jai Ram Bhatt, Pandit, Pandukeshwar.
59.	Jamuna Prasad, Kunwar, Joshimath.
60.	Jaya Prasad, Kunwar, Joshimath.
61.	Jiva Nand Doval, Pandit, Pauri.
62.	Jiva Nand, Pandit, Shrinagar.
63.	Jwala Ram, Thakur, Okhimath.
64.	Jyoti Prasad, Mahant, Pauri.
65.	Kedar Ling, Rawal, Gopeshwar.
66.	Kesho Prapanna, Swami, Nandprayag.
67.	Kharak Singh, Thakur, Hanuman Chatti.
68.	Kirti Nand Uniyal, Pandit, Shrinagar.
69.	Krishna Nand, Pandit, Shrinagar.
70.	Kulanand Tewari, Pandit, Joshimath.
71.	Kushal Singh, Thakur, Pandukeshwar.
72.	Kushal Singh, Khircha, Badrinath.



S. no.	Name and address.
73.	Lakshmi Narayan, Seth, Lachhman Jhula.
74.	Lalta Nand Puri, Mahant, Shrinagar.
75.	Leelanand, Pandit, Gauri Kund.
76.	Madhavanand Pandit, Nandprayag.
77.	Madhusudan, Mahant, Joshimath.
78.	Makar Gir, Gosain, Gauri Kund.
79.	Makar Singh, Sardar Bahadur, Lt., Gopeshwar.
80.	Malook Ram, Pandit, Badrinath.
81.	Mangal Singh, Okhimath.
82.	Mani Ram, Baba, Rishikesh.
83.	Manohar Lal Sah, Lala, Shrinagar.
84.	Manohar Lal Sah, Lala, Joshimath.
85.	Marappa Chaiti, Srijut, Kedarnath.
86.	Moti Ram, Pandit, Badrinath.
87.	Mukand Ram, Pandit, Devaprayag.
88.	Narayana Dass, Pandit, Nandprayag.
89.	Narayana Datt, Pandit, Agastmuni.
90.	Narayana Datt, Pandit, Trijugi Narayana.
91.	Narayana Datt, Pandit, Kedarnath.
92.	Narayana Datt, Pandit, Langasu Chatti.
93.	Narayan Datt, Pandit, Karanprayag.
94.	Narayana Datt Bahuguna, Pandit, Badrinath.
95.	Narayan Datt Raturi, Pandit, Chhatkote.
96.	Narayana Singh, Thakur, Agastmuni.
97.	Narayana Singh, Thakur, Guptakashi.
98.	Narhari Sharma, Pandit, Badrinath.
99.	Narmadanand <i>alias</i> Hathabhyasi Swami, Joshimath.
100.	Nathi Lal, Lala, Guptakashi.
101.	Nathu Ram, Pandit, Badrinath.
102.	Nilkantha Ling, Shri Swami, Rawal, Okhimath.
103.	Nijanand, Swami, Badrinath.
104.	Padma Singh, Thakur, Chamoli.
105.	Paras Ram, Brahmachari, Badrinath.
106.	Parsadu Marchha, Badrinath.
107.	Pati Ram, Pandit, Kumar Chatti.
108.	Pitambar Datt Pant, Pandit, Pauri.
109.	Pitambar Datt Pasbola, Pauri.
110.	Praduman Singh, Thakur, Pauri.
111.	Pratap Singh Negi, Thakur, Pauri.
112.	Pratap Singh, Thakur, Chamoli.



Sl. no.	Name and address.
113.	Ram Narayan Acharaya, Swami, Badrinath.
114.	Prithvi Dhar Jayal, Pandit, Pauri.
115.	Purshottam Dass Kackar, Lala, Patal Ganga.
116.	Raghubar Datt, Pandit, Joshimath.
117.	Raghunath Shastri, Pandit, Badrinath.
118.	Raja Ram, Pandit, Martundkane, Badrinath.
119.	Rama Bhajan, Pandit, Rudraprayag.
120.	Rama Krishna, Pandit, Devaprayag.
121.	Ramlal Sah, Lala, Pipal Koti.
122.	Ram Lal Sah, Lala, Badrinath.
123.	Ram Narayan Acharaya, Swami, Badrinath.
124.	Ramnath Devi Prasad, Panda, Badrinath.
125.	Ram Prasad, Panda, Badrinath.
126.	Ram Prasad Jayal, Pandit, Badrinath.
127.	Ram Sarikh Singh, Thakur, Badrinath.
128.	Ram Singh, Thakur, Gair Sain Chatti, Lohbā.
129.	Ram Udar Das, Mahant, Lachhman Jhula.
130.	Rana Gosain, Kedarnath.
131.	Ravi Datt Nauni, Pandit, Adi Badri.
132.	Revati Nandan, Pandit, Guptakashi.
133.	Rewat Rama, Pandit, Devaprayag.
134.	Rudri Datt, Pandit, Joshimath.
135.	Rup Ram Maithani, Pandit, Kedarnath.
136.	Sachchidanand, Swami, Rudraprayag.
137.	Sadanand Anthwal, Pandit, Pauri.
138.	Sadi Ram Bavalia, Pandit, Devaprayag.
139.	Sadashiva Brahmachari, Badrinath.
140.	Salig Ram, Vaishnava. Pandit, Karanprayag.
141.	Seshadri, P. Iyer, Joshimath.
142.	Shanker Das, Swami, Kedarnath.
143.	Shanker Datt, Pandit, Devaprayag.
144.	Shanker Datt, Pandit, Gopeshwar.
145.	Shanker Datt, Pandit, Nandprayag.
146.	Sher Singh, Badrinath.
147.	Shiam Singh, Thakur, Okhimath.
148.	Shiva Charan Panda, Pandit, Badrinath.
149.	Shiva Prasad, Pandit, Devaprayag.
150.	Sri Ram Sah, Lala, Pandukeshwar.
151.	Somanand Brahmachari, Chamoli.
152.	Sunder Ling, Guptakashi.

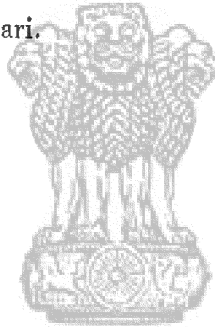


S. no.	Name and address.
153.	Tara Datt Gairola, Pandit, Rai Bahadur, Pauri.
154.	Tara Datt Uniyal, Pandit, Pauri.
155.	Tula Ram, Thakur, Asman.
156.	Tula Ram, Brahmachari, Joshimath.
157.	Tulsi Ram, Pandit, Trijugi Narayan.
158.	Venkatachari, S., Mr., Badrinath.
159.	Vidya Datt, Pandit, Mandal Chatti.
160.	Vishal Mani, Pandit, Guptakashi.
161.	Yogendra Puri, Shri, Shrinagar.
162.	Hari Prasad.
163.	Hari Datt Nautiyal.
164.	Jai Ram.
165.	Gyan Dev.
166.	Bahadur Singh.
167.	Fateh Singh.
168.	Debi Singh.
169.	Manohar Singh.
170.	Dev Singh.
171.	Keshavanand.
172.	Bahadur Singh Subedar.
173.	Prasad Singh Subedar.
174.	Bhauna Sah.
175.	Ganga Ram.
176.	Kirpa Ram.
177.	Badri Prasad Namburi.
178.	Keshav Prasad.
179.	Gita Pathi.
180.	Debi Prasad.
181.	Ghanshiam Dhayani.
182.	Goberdhan Lambardar.
183.	Vasudav Kotiyal.
184.	Bhagwatachari.
185.	Mathura Prasad.
186.	Bisheshwar Prasad Kotiya.
187.	Ram Prasad Dhayani.
188.	Sunder Lal.
189.	Thakur Das Panda.
190.	Trivikram Prasad.
191.	Kirpa Shanker.



S. no. Name and address.

193. Ram Prasad Kotiyal.
194. Nathu Ram.
195. Ram Prasad Sat Bhayya.
196. Shanker Prasad.
197. Kashi Prasad.
198. Daya Ram.
199. Thakur Chhilak Singh.
200. L. Ansuya Lal Sah.
201. Hem Raj.
202. Janaki Das.
203. Udai Ram.
204. Buddhi Ram.
205. Mawa Gir.
206. Ravi Datt.
207. Suresha Nand Pujari.
208. Tota Sah.
209. Sarvan Das.
210. Jai Singh.
211. Bali Ram.
212. Bhaj Ram.
213. Khil Pati.
214. Ravi Datt.
215. Kashi Ram.



FYZABAD.

216. Bhagwant Saranji, Baba, Papmochanghat (Ajodhya).
217. Brij Ballabh Kishore, Babu, Rai Sahib, Sub-Registrar.
218. Dwarka Prasad, Babu, Executive Officer (Municipal Board).
219. Girja Prasad Misra, Pandit, Secretary, Hindu Sabha.
220. Kashi Prasad, Pandit, Updeshak, All-India Sanatan Dharm Sabha.
221. Kashi Nath, Pandit, Rai Bahadur, Special Manager, Court of Wards, Ajodhya State.
222. Kedar Nath Maheshay, Updeshak.
223. Keshwasram, Swami, Ajodhya.
224. Koshalendra Partap Sahi, Kunwar, Deara Estate (Sultanpur).
225. Krishna Lal Kaul, Pandit, Additional Subordinate Judge.
226. Madan Mohan Varma, Babu, President, Arya Samaj.
227. Narsingh Nath, Babu, Pleader, Fyzabad.



S. no.	Name and address.
228.	Parmeshwar Nath Sapru, Pandit, Pleader.
229.	Rachpal Singh, Thakur, Rai Bahadur, District Judge.
230.	Ram Bharose Seth, Babu, Deputy Collector.
231.	Ram Dutt, Baba, of Bahraich (P. O. Bhinga).
232.	Rananjai Singh, Kunwar, M.L.A., Amethi, district Sultanpur.
233.	Samman Lal, Babu, Vice-Chairman, Municipal Board.
234.	Sheo Mangal Singh, Thakur, Secretary, Hindu Sabha, Ajodhya.
235.	Sukhnandan Das, Baba.
236.	Tirloki Nath Kapoor, Babu, Rai Bahadur, Tanda.

## BENARES.

237.	Amir Chand Jain, Benares.
238.	Bankim Chandra Chatterji, Babu, Benares.
239.	Batuk Prasad Khatri, Babu, Rai Bahadur, Benares.
240.	Gauri Shankar Prasad, Babu, Advocate, Benares.
241.	Harish Chandra, Mr., I.C.S., District Judge, Benares.
242.	Iqbal Narain Gurtu, Pandit, M.L.C., Benares.
243.	Jagannath Prasad Mehta, Pandit, Rai Bahadur, Benares.
244.	Kewal Chand, Seth, Benares.
245.	Kunwar Nandal, Captain, Rai Bahadur, Benares.
246.	Lakshman Shastri, Pandit, Benares.
247.	Lalit Behari Roy, Babu, Rai Bahadur, Benares.
248.	Kavindra Narain Singh, M.L.C., Benares.
249.	Narendra Deva Verma, Babu, Benares.
250.	Rabinandan Prasad, Babu, Benares.
251.	Raghunandan Upadhyaya, Pandit, City Magistrate.
252.	Ram Krishna Achari, Pandit, President of Ballia.
253.	Ram Narain Misra, Pandit, Benares.
254.	Sheo Shankar Singh, Thakur, Benares.
255.	Shri Prakasha, Mr., Sewa Asharam, Benares.
256.	Panna Lal Johri, Benares.
257.	Uma Kant Pande, Pandit, B.A., LL.B., Benares.
258.	Vishnu Bhashkar Kelkar, Pandit, M.A., L.T., Benares

## MUTTRA.

259.	Babu Lal, Goswami, Brindaban.
260.	Balram Kishore Tandon, Babu, Deputy Collector, Muttra.
261.	Banmali Shastri, Pandit, Muttra.
262.	Bhagwat Dasji, Mahant, Shri Rangji Temple Brindaban.
263.	Bijai Krishna, Goswami, Radha Raman Temple, Brindaban.



S. no.	Name and address.
264.	Bipin Charan Batabyal, B.L., Dacca.
265.	Chandra Krishna, Goswami, Brindaban.
266.	Brij Lal, Hakim, Secretary, Seva Samiti.
267.	Damodaracharya, Goswami, Brindaban.
268.	Dwarika Nath Bhargava, M.A., Advocate, Muttra.
269.	Girja Nand, Swami, Secretary, Ram Krishna Mission Seva Ashram, Brindaban.
270.	Gopindra Nandan, Goswami, B.A., LL.B., Brindaban.
271.	Govindachariji, Pandit, Brindaban.
272.	Govind Charan Dass, Adhikari Shyam Sunder Temple, Brindaban.
273.	Govind Das, Babu, Chairman, District Board, Muttra.
274.	Hari Krishna, Lala, Manager, Shah Ji Temple, Brindaban.
275.	Hukum Singh, Thakur, M.L.C., Muttra.
276.	H. S. Sen Gupta, Professor, Prem Mahavidyalaya, Brindaban.
277.	Jagannath, Babu, President, Bar Association, Muttra.
278.	Jai Behari Lal, Goswami, Brindaban.
279.	Janki Dass, Seth, Bhajanashram, Brindaban.
280.	Jugal Kishore Chaturvedi, Pandit, Muttra.
281.	Jumuna Prasad, Babu, Chairman, Municipal Board, Brindaban.
282.	Krishna Ballabha Sharma, Pandit, Brindaban.
283.	Krishna Chandra, Professor, Prem Mahavidyalaya, Brindaban.
284.	Krishna Pal Singh, Rao, M.L.C., district Etah.
285.	Lajja Shankarji, Adhikari, Dwarkadhish Temple, Muttra.
286.	Lakshman Acharya, Swami, Sri Venkatesh Mandir, Brindaban.
287.	Lakshman Prasad Gupta, Babu, Muttra.
288.	Madhavacharya, Kanisht, Gat Ashram. Narainji's Temple, Muttra.
289.	Manni Lalji, Goswami, Brindaban.
290.	Piari Lal Gupta, Doctor, Civil Surgeon, Muttra.
291.	Purani Lalji, Goswami, Brindaban.
292.	Radha Ballabh Pathak, Pandit, Secretary, Sanatan Dharam Sabha, Muttra.
293.	Radha Krishna, Pandit, Rai Bahadur, Curator, Museum, Muttra.
294.	Radhe Krishna Bhargava, Babu, President, Hindu Sabha, Muttra.
295.	Raj Bahadur, Babu, Muttra



S. no.	Name and address.
296.	Ram Nath Bhargava, Babu, Rai Bahadur, Muttra.
297.	Triloki Nath, Babu, Sessions and Subordinate Judge, Muttra.
298.	Uma Shankarji, Vaidya, Brindaban.
299.	Venkatachari, S., Shri Rangji Temple, Brindaban.

## MIRZAPUR.

300.	Basant Lal, Babu, Mirzapur.
301.	Behari Lal, Seth, Rai Bahadur, Mirzapur.
302.	Bhagwan Prasad Pathak, Pandit, Mirzapur.
303.	Bhoodarji Panda, Bindhyachal.
304.	Hari Shori Nandanji, Panda, Bindhyachal.
305.	Jarbandan Gir, Gosain, Mirzapur.
306.	Jawala Prasad, Panda, Bindhyachal.
307.	Kesho Dasji, Mahant, Mirzapur.
308.	Kunj Behari Lal, Babu, Vakil, Mirzapur.
309.	Lakshmi Sahai, Munshi, Advocate, Mirzapur.
310.	Lalit Mohan, Babu, Advocate, Mirzapur.
311.	Madho Singh (Sikh), Thakur, Mirzapur.
312.	Mahendra Singh, Thakur, Deputy Collector, Mirzapur.
313.	Mukand Lal, Babu, Mirzapur.
314.	Narsingh Prasadji, Panda, Bindhyachal.
315.	Newal Kishore, Babu, President, Bar Association, Mirzapur.
316.	Raghunath Dasji, Mahant, Mirzapur.
317.	Raj Bahadur Lal, Munshi, Rai Bahadur, Advocate, Mirzapur.
318.	Ram Das, Munshi, Badli Katra, Mirzapur.
319.	Sheo Bandhan Pande, Assistant Collector, Mirzapur.
320.	Sheo Das Sharma, Pandit, Mirzapur.
321.	Udho Prasadji, Munshi, Allahabad.
322.	Udho Prasadji, Munshi, Mirzapur.

## ALLAHABAD.

323.	Amar Nath, Pandit, Kara, district Allahabad.
324.	Anandi Prasad Dube, Mr., M.L.C., Allahabad.
325.	Balgovind Pujari, Basuki Temple, Allahabad.
326.	Beni Madho, Babu, Allahabad.
327.	Desraj Ranjit Singh, Major, George Town, Allahabad.
328.	Ganga Nath Jha, Mahamahopadhyaya, Dr., Vice-Chancellor, Allahabad University.
329.	Girdhari Lal Agarwala, Lala, Advocate, Allahabad.
330.	Lakshmi Charan Jain, Dr., Warden, Jain Hostel, Allahabad.
331.	Mool Chand Malaviya, Pandit, Allahabad.



S. no	Name and address.
332.	Mool Narayan Tewari, Pandit, Allahabad.
333.	Mukandi Ramji, Babu, Katra, Allahabad.
334.	Mutsaddi Lal Jain, Lala, Arai, tahsil Handia, district Allahabad.
335.	Narayan Prasad Asthana, Mr., Advocate, Allahabad.
336.	Narbadeshwar Upadhyay, Pandit, Vakil, High Court, Allahabad.
337.	Panna Lal, Mr., Advocate, High Court, Allahabad.
338.	P. S. Jaiswal, Mr., City Road, Allahabad.
339.	Panchampuri, Gosain, Shivkoti Allahabad.
340.	Radha Charan, Babu, retired Deputy Collector and ex-Manager, Rangji Temple, Allahabad.
341.	Rikhab Das Jain, Lala, Advocate, Secretary Jain Hostel, Allahabad.
342.	Sita Ram, Pandit, Rai Bahadur, retired Deputy Collector, Allahabad.
343.	Tej Bahadur Sapru, Sir, Allahabad.
344.	Vidyanandji, Swami, Ram Krishna Mission Sevashram, Allahabad.

#### LUCKNOW.

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|------|---|
| 345. | Adya Dut, Thakur, M.A., Lucknow University.   |
| 346. | Badri Datt Pande, Pandit, M.L.C., Almora.   |
| 347. | Bharati Krishna Tirtha, Jagad Guru Swami Shri Shankaracharya of Goverdhan Math, Puri. |
| 348. | Bindeshwar Nathji, Vaidya Shastri, Lucknow.   |
| 349. | Chain Singh, Mr., Lucknow.  |
| 350. | Chintamani, C. Y., Mr., M.L.C., Allahabad.  |
| 351. | Gaya Prasadji, Pandit, Lucknow.   |
| 352. | Grish Chandra Sharma, Pandit, Canning College, Lucknow.                               |
| 353. | Gulab Chand Jain, Babu, Lucknow.  |
| 354. | Gurmukh Dasji, Baba, Lucknow.   |
| 355. | Hanuman Singh, Thakur, Rai Bahadur, M.L.C., Rae Bareilly.                             |
| 356. | Hargovind Dayal Srivastava, Babu, Advocate, Lucknow.                                  |
| 357. | Hari Krishna Gour, Pandit, Lucknow.   |
| 358. | Har Prasad Saxena, Babu, Editor, Oudh Akhbar, Lucknow.                                |
| 359. | Iqbal Shanker Kochak, Pandit, Pleader, Lucknow.                                       |
| 360. | Iyer, K. A. S., Mr., Lucknow.   |
| 361. | Jagdish Prasad, Lala, Rai Bahadur, M.L.C., Muzaffarnagar.                             |
| 362. | Jotendra Mohan Basu, Babu, Rai Bahadur, Additional District Judge, Lucknow.           |
| 363. | Jai Ram Saxena, Babu, M.L.C., Bareilly.   |



S. no.	Name and address.
364.	Kshamapati Bajpai, Pandit, Vaidya, Lucknow.
365.	Lachman Prasad Srivastava, Babu, Advocate, Lucknow.
366.	Mahesh Nath Sharma, Pandit, Editor, Anand, Lucknow.
367.	Manik Chand Jain, Babu, Advocate, Lucknow.
268.	Mukandi Lal, Mr., Bar.-at-Law, M.L.C. Garhwal.
368.	Mukandi Lal, Mr., Bar.-at-Law, M.L.C., Garhwal.
370.	Nanak Chand, Pandit, M.L.C., Bulandshahr.
371.	Pant, D., Dr., P.H.D., Lucknow University.
372.	Prag Narain, Lala, M.L.C., Taluqdar, Maurawan, Unao.
373.	Radha Kumud Mukerji, Dr., M.A., Ph.D., Lucknow University..
374.	Raghunandan Prasad, Pandit, Lucknow.
375.	Raja Ram Prohit, Pandit, Lucknow.
376.	Rameshwar Prasad Seth, Lala, Lucknow.
377.	Sukhdeo Behari Misra, Pandit, Rai Bahadur, Dewan, Chatter- pur State.
378.	Tara Shanker Sharma, Pandit, Advocate, Lucknow.
379.	Tulsipat Ram, Babu, Deputy Collector, Lucknow.
380.	Venkataratnam, B., Miss, Professor, Isabella Thoburn College, Lucknow.

## KURWI-CHITRAKOT.

381. Avadh Saranji Maharaj of Ajodhya, Chitrakot.
382. Babu Lal, Lala, Kurwi.
383. Babu Ram Panda, Chitrakot.
384. Badrinath Brahmachari, Pandit, Chitrakot.
385. Basant Lal Panda, Pandit, Chitrakot.
386. Bhagwanji, Shri, Taraohan, Kurwi.
387. Bhagwat Dasji, Mahant, Chitrakot.
388. Bhairon Prasad, Lala, Kurwi.
389. Bhaiya Ram Panda, Chitrakot.
390. Bhalchandra Vaishampayan. Pandit, Kurwi.
391. Chandra Bhan, Lala, Kamdar, Chitrakot.
392. Chandra Kishore, Babu, Chitrakot.
393. Daughter's daughter of Raja of Ajaigarh, Chitrakot.
394. Gaindi Lal, Chaubey, Pandit, Chitrakot.
395. Gaya Prasad, Pandit, Chitrakot.
396. Goberdhan Lalji, Pandit, Chitrakot.
397. Gaudin Sharma, Pandit, Chitrakot.
398. Harbans Prasad, Lala, Kurwi.
399. Har Bhajan Das, Baba, Chitrakot.



s. no.	Name and address.
400.	Jagannath Prasad, Pandit, Kurwi.
401.	Jiwan Dasji, Mahant, Chitrakot.
402.	Kamal Das ki Behariji, Mahant, Chitrakot.
403.	Kamta Dasji, Mahant, Chitrakot.
404.	Kamta Prasad, Lala, Kurwi.
405.	Kesava Das, Mahant, Chitrakot.
406.	Keshav Pandurau Moghey, Pandit, Chitrakot.
407.	Lachman Dasji, Mahant, Chitrakot.
408.	Lachman Dasji, Mahant, Chitrakot.
409.	Murlidhar, Pandit, Kurwi.
410.	Raghubans Bhushan Das Hanumanji, Janki Kund, Chitrakot.
411.	Ram Autarji, Paramhans, Janki Kund, Chitrakot.
412.	Ram Bahori, Pandit, Kurwi.
413.	Ram Charan, Pandit, Uprohit, Chitrakot.
414.	Ram Charan Das, Mahant, Chitrakot.
415.	Ram Das, Babu, Chitrakot.
416.	Ram Dasji, Paramhans <i>alias</i> Shri Swami Maharaj Bhakkarji.
417.	Ram Kishan Das, Mahant, Rambagh, Kurwi (Chitrakot).
418.	Ram Narain Das, Mahant, Chitrakot.
419.	Ram Prasad, Lala, Kurwi.
420.	Ram Prasad Brahmachari, Pandit, Chitrakot.
421.	Ram Ratan Das, Mahant, Chitrakot.
422.	Ram Sajiwan, Pandit, Uprohit, Chitrakot.
423.	Ratti Lal, Lala, Kurwi.
424.	Shyam Lal, Pandit, Sitapur, Chitrakot.
425.	Suraj Bhanji, Kurwi.
426.	Udhava Dasji, Shriman, Chitrakot.

## CAWNPORE.

427. Akhaya Kumar Chatterji, Babu, Ram Lakshman Janki Trust, Cawnpore.
428. Champa Ram Misra. Pandit, B.A., Deputy Director of Industries, Cawnpore.
429. Dewan Chand, Lala, Principal, D. A.-V. College, Cawnpore.
430. Ganpat Rai Saxena, Babu, Cawnpore.
431. Har Dutta Sharma, Pandit, Sanatan Dharma College, Cawnpore.
432. Hari Har Nath Muttoo, Pandit, Rai Bahadur, Cawnpore.
433. Hira Lal Khanna, Babu, Sanatan Dharma College, Cawnpore.



S. no.	Name and address
434.	Jageshwar Prasad, Lala, Ram Lila Committee, Cawnpore.
435.	Kali Shankar Sharma, Pandit, M.A., LL.B., Sanatan Dharma College, Cawnpore.
436.	Kalka Prasad, Lala, Merchant, Cawnpore.
437.	Kanhaiya Lal Jain, Lala, Vaidya, Cawnpore.
438.	Laxman Sita Ram Kher, Pandit, Assistant Commissioner of Income-tax, Cawnpore.
439.	Madan Chand Khanna, Lala, Cawnpore.
440.	Murlidhar Khatri, Lala, Tapeswari Devi Trust, Cawnpore.
441.	Radha Raman Lal, Babu, Ram Dass Trust, Cawnpore.
442.	Raghubar Dayal, Pandit, Vaidyashastri, Cawnpore.
443.	Rameshwar Dayal, Pandit, Deputy Collector, Cawnpore.
444.	Ram Prasad, Lala, Goshala Society, Cawnpore.
445.	Rup Chand Jain, Lala, Chairman, District Board, Cawnpore.
446.	Sarju Narain Tewari, Pandit, Cawnpore.
447.	Seshadri, P., Esq., M.A., Sanatan Dharma College, Cawnpore.
448.	Sheo Shanker Lal Bajpai, Pandit, Kailas Trust, Cawnpore.
449.	Shyam Lal, Babu, M.A., LL.B., M.L.C., Cawnpore.
450.	Sri Ram, Lala, Goshala Society, Cawnpore.
451.	Tribhuwan Das, Lala, Cawnpore.
452.	Vikramajit Singh, Babu, Rai Bahadur, M.A., LL.B., M.L.C., Cawnpore.

#### HARDWAR.

453.	Anand Swarup, Babu, Legal Practitioner, Roorkee.
454.	Anand Swarup, Lala, Honorary Magistrate, Muzaffarnagar.
455.	Bhagwan Das, Lala, Hardwar.
456.	Bharat Das Ji, Mahant, Baba Lal Das ka Bara, Saharanpur.
457.	Brij Bhukan Lal, Pandit, Chairman, District, Board, Saharanpur.
458.	Brij Lal, Lala, Trader, Hardwar.
459.	Budh Sen, Pandit, Trader, Hardwar.
460.	Chakra Dhar Jayal, Pandit, Rai Bahadur, Home Member, Tehri.
461.	Chanan Ram, Lala, General Merchant, Hardwar.
462.	Durga Dutta Pant, Pandit, Honorary Magistrate, Kashipur (Naini Tal).
463.	Ganeshanandji Saraswati, Swami, Hardwar.
464.	Ganshyamji, Shastri, Pandit, Manager, Abdhoot Mandal Nirakari Ashram, Kankhal.



- | S. no. | Name and address.  |
|--------|--|
| 465.   | Girdhari Lal, Lala, Secretary, Seva Samiti, Hardwar.                                   |
| 466.   | Govind Ramji, Lala, Trader, Hardwar.   |
| 467.   | Hardwari Lal, Lala, Hardwar.   |
| 468.   | Harpal Singh, Thakur, Deputy Collector, Saharanpur.                                    |
| 469.   | Hem Chandrajii Shastri, Pandit, Hardwar.   |
| 470.   | Kalyanandji, Swami, Ram Krishna Mission, Sewashram, Hardwar.                           |
| 471.   | Kartar Singh Bedi, Baba, Hardwar.  |
| 472.   | Kedar Nath Sharma, Pandit, Assistant Secretary, Rishikul Brahmacharya Ashram, Hardwar. |
| 473.   | Kishori Lal, Pandit, Trader, Hardwar.  |
| 474.   | Krishna Lal Bajpai, Pandit, Vaidya, Hardwar.   |
| 475.   | Mansinghji, Sant, Panchaiti Nirmala Akhara, Kankhal.                                   |
| 476.   | Nirmalanand Saraswati, Swami, Kankhal.   |
| 477.   | Onkaranandji Swami, Secretary, Attar Kaur Trust, Hardwar.                              |
| 478.   | Parbhu Dayal Sharma, Pandit, Joint Secretary, Sanatan Dharma Rakshini Sabha, Meerut.   |
| 479.   | Parmanandji, Pandit, Kankhal.  |
| 480.   | Purshottam Acharya, Prativad Bhayankar Math, Bombay.                                   |
| 481.   | Ram Bhushan Misra, Pandit, Punjab Sindh Chetra Sadhu Vidyalaya.                        |
| 482.   | Ram Chandrajii, Pandit, Vaidya, Kankhal.   |
| 483.   | Ram Chandra Sharma, Pandit, Hardwar.   |
| 484.   | Shiva Chandra Vaidya, Pandit, Kankhal.   |
| 485.   | Shiva Dutt Pandey, Pandit, Secretary, U. P. Mandal Sanatan Dharma, Hardwar.            |
| 486.   | Shyam Sunder, Swami, Hardwar.  |
| 487.   | Vigyandevaji, Swami, Hardwar.  |

#### RISHIKESH.

- |      |                                   |
|------|-----------------------------------|
| 488. | Anandi Prasad, Panda, Rishikesh.  |
| 489. | Baldeo Dass, Swami, Rishikesh.    |
| 490. | Basantanand, Sarswati, Rishikesh. |
| 491. | Bhagwan Dass, Rishikesh.          |
| 492. | Charan Dass, Lala, Rishikesh.     |
| 493. | Ganga Pratap, Lala, Rishikesh.    |
| 494. | Ganga Puri Ji, Rishikesh.         |
| 495. | Gokul Chand, Lala, Rishikesh.     |
| 496. | Kalayan Deo, Swami, Rishikesh.    |
| 497. | Kishan Dass, Pandit, Rishikesh.   |
| 498. | Krishna Puri, Swami, Rishikesh.   |



S. no.	Name and address.
499.	Laxman Singh, Kavisen, Rishikesh.
500.	Lorinda Mal, Bhagat, Manager, Punjab Sind Kshetra, Rishikesh.
501.	Murliwala Magnanandi, Rishikesh.
502.	Nityanand Brahmachari, Swami, Rishikesh.
503.	Onkaranand, Swami, Rishikesh.
504.	Pashupati Dass Ji, Swami, Rishikesh.
505.	Ramanandji, Rishikesh.
506.	Ratan Lall Jain, Lala, Bijnor.
507.	Ram Udar Dass, Mahant, Lachman-Jhula.
508.	Rangaswami Ayyanger, K. V., M.L.A., Madras.
509.	Sangat Ram, Dr., Rishikesh.
510.	Satyanand, Swami, Birbhadra, Rishikesh.
511.	Sher Singh, Lala, Rishikesh.
512.	Shiva Narain Haksar, Pandit, Muttra.
513.	Vigyanandji I, Rishikesh.
514.	Vigyanandji II, Rishikesh.

## DEHRA DUN.

515.	Amar Nath Vaidya, Pandit, Vice-President, Aryasamaj, Dehra Dun.
516.	A. P. Bajpai, Dr., Dehra Dun.
517.	Atma Singh, Sardar, Dehra Dun.
518.	Banshi Dhar Shastri, Pandit, Dehra Dun.
519.	Basant Singh, Sardar, Dehra Dun.
520.	Bishambhar Dutta Chandola, Editor, "Garhwali," Dehra Dun.
521.	Chaman Lal Sangal, Babu, Vakil, Dehra Dun.
522.	Chandi Pershal Singh, Mr., Advocate, Dehra Dun.
523.	Chandra Bhan, Babu, Dehra Dun.
524.	Chatterji, J. M., Bar.-at-Law, Dehra Dun.
525.	Dwarka Nath Raina, Pandit, Pleader, Dehra Dun.
526.	Gayan Swaroop, Raïs, Dehra Dun.
527.	Gopl Dass Mukerji, retired District and Sessions Judge, Dehra Dun.
528.	Hardutta Shastri, Pandit, Tehri.
529.	Harnam Singh, Sardar, Dehra Dun.
530.	Hirday Narain, Pandit, Dehra Dun.
531.	Hukam Chand, Babu, Dehra Dun.
532.	Jayanti Parshad, Mukhtar, Dehra Dun.
533.	Joti Pershad, Lala, Dehra Dun.



S. no.	Name and address.
534.	Jugmandar Dass Jain, Lala, Dehra Dun.
535.	Karam Singh, Sardar, Dehra Dun.
536.	KKirpa Ram, Babu, Kotdwara.
537.	Laxman Singh, Thakur, Dehra Dun.
538.	Manjit Singh Rathore, Mr., M.L.C., Dehra Dun.
539.	Mathura Dutt Joshi, Pandit, Dehra Dun.
540.	Mehar Singh, Sardar, Dehra Dun.
541.	Partap Singh, Sardar, Amritsar.
542.	Pirthi Singh Rawat, Babu, Dehra Dun.
543.	Prem Lal, Lala, Dehra Dun.
544.	Purnandan, Swami, Dehra Dun.
545.	Rai Singh, Sardar, Dehra Dun.
546.	Ram Narayan, Pandit, "Dehra Times" Press, Dehra Dun.
547.	Ram Rajpal Singh, Thakur, Deputy Collector, Dehra Dun.
548.	Sadhu Singh, Sardar, Dehra Dun.
549.	Sajjan Singh, Sardar, Dehra Dun.
550.	Sham Sher Bahadur Singh, Kunwar, Dehra Dun.
551.	Sher Singh, Chaudhri, Rai Bahadur, Chairman. District Board, Dehra Dun.
552.	Sohan Singh, Dehra Dun.
553.	Thakur Singh, Sardar, Dehra Dun.
554.	Tula Ram, Panda, Dehra Dun.
555.	Ugar Sen, Mr., Bar.-at-Law, Chairman, Municipal Board, Dehra Dun.
556.	Vicharanandji, Swami, Dehra Dun.



**APPENDIX G.**

*List of persons and public bodies from whom written memoranda were received.*

<b>S. no.</b>	<b>Name and address.</b>
1.	Abdboot Mandal Nirakari Ashram, Kankhal.
2.	Achala Nandji, Rishikesh.
3.	Adwaita Nand Ji, Swami, Rishikesh.
4.	Adya Datt Thakur, Pandit, Lucknow.
5.	Adya Puri, Pandit, Rishikesh.
6.	Alam Singh Rawat, Dr., Garhwal.
7.	Amarnath Agarwal, Lala, Allahabad.
8.	Amarnath Sharma, Hardwar.
9.	Anand Behari Lal, Babu, Lucknow.
10.	Ananda Giri, Calcutta.
11.	Anand Swarup Saheb, Lala, Muzaffarnagar.
12.	Anand Swarup, Babu, Rai Bahadur, Cawnpore.
13.	Anjani Nandan Gaur, Pandit, Advocate, Azamgarh.
14.	Anup Dass Vaishnava, Rishikesh.
15.	Asa Ram Panda, Hardwar.
16.	Asa Ram Panda, Hardwar.
17.	Asa Ram, Pandit, Rishikesh.
18.	Asharfi Lal Gupta, Lala, Cawnpore.
19.	Atar Chand, Pandit, Hardwar.
20.	Atar Chand Panda, Hardwar.
21.	Atar Chand, Pandit, Rishikesh.
22.	Atar Chand Panda, Hardwar.
23.	Atma Nand, Sadhu, Rishikesh.
24.	Atmanand, Pandit, Rishikesh.
25.	Atma Ram Sharma, Hardwar.
26.	Atma Ram, Pandit, Rishikesh.
27.	Ajudhiya Prasad Singh, M.A., LL.B., Lucknow.
28.	A. B. Bahuguna, Esq., B.Sc., LL.B., Garhwal.
29.	A. N. Sapru, Esq., Deputy Commissioner, Bahraich.
30.	A. P. Gupta, Esq., Dehra Dun.
31.	Babu Prasad, Esq., Deputy Collector, Mainpuri.
32.	Babu Ram Gupta, Esq., Advocate, Etawah.
33.	Babu Ram, Lala, Etawah.
34.	Babu Ram Panda, Hardwar.



S. no.	Name and address.
35.	Babu Ram Panda, Pokhri.
36.	Badri Prasad Panda, Hardwar.
37.	Badri Prasad Panda, Hardwar.
38.	Baij Nath Das, Esq., Vakil, Benares.
39.	Baij Nath Shastri Esq., M.A., Vakil, Garhwal.
40.	Baishampain, Pandit, Kurvi.
41.	Balak Puri Ji, Mahant, Secretary, Mahanirwani Akhara, Allahabad.
42.	Baldeo Das Mahant, Rishikesh.
43.	Baldeo Das, Baba, Rishikesh.
44.	Bali Ram, Hardwar.
45.	Ballabha Puri, Rishikesh.
46.	Balmakund Panda, Hardwar.
47.	Balmakund, Pandit, Hardwar.
48.	Balmakund, Lala, Etawah.
49.	Balram Das, Lala, Rishikesh.
50.	Balram Kishore Tandan, Esq., Deputy Collector, Muttra.
51.	Balwant Singh, Pandit, Member, District Board, Etawah.
52.	Balwant Singh, Etawah.
53.	Banav Parishtanand, Rishikesh.
54.	Nand Lal Manucha, Babu, Fyzabad.
55.	Bansi Dhar, Etawah.
56.	Bansi Dhar Shastri, Pandit, Dehra Dun.
57.	Banwari Lal Dixit, Pandit, Advocate, Etawah.
58.	Baroo Ram Panda, Hardwar.
59.	Basdeo Puri, Rishikesh.
60.	Basdeo, Pandit, Rishikesh.
61.	Basdeva Patti, Pandit, Hardwar.
62.	Basantanand Saraswati, Rishikesh.
63.	Behari Das, Lala, Etawah.
64.	Behari Lal Nigam, Babu, Advocate, Unao.
65.	Benodu Behari Lal Mathur, Babu, Advocate, Mainpuri.
66.	Bhagat Lal Vaidya, Pandit, Fatehpur.
67.	Bhagnal Panda, Rishikesh.
68.	Bhagnal Padham, Panda, Hardwar.
69.	Bhagnal Sootri Panda, Hardwar.
70.	Bhagat Ram, Rishikesh.
71.	Bhagwan Das, Mahant, Rishikesh.
72.	Bhagwan Prasad Pathak, Mirzapur.
73.	Bhagwan Sahai, Kabir Choura, Benares.
74.	Bhagwati Prasad, Chaudhri, Etawah.



S. no.	Name and address.
75.	Bhawani Din Shukla, Pandit, Pilibhit.
76.	Bhairawa Datt, Vaidya, Hardwar.
77.	Bhashkaranand Gir, Swami, Rishikesh.
78.	Bhagwan Das, Rishikesh.
79.	Bhagwan Singh, Rishikesh.
80.	Bhagwan Das Panda, Rishikesh.
81.	Bhagwant Saran Ji, Baba, Ayodhya.
82.	Bhagwat Das, Mahant, Brindaban.
83.	Bhagwat Das, Mahant, Muttra.
84.	Bhagwan Din Shukla, Pandit, Pilibhit.
85.	Bhairon Dat Vaidya, Hardoi.
86.	Bharat Das Ji, Mahant, Saharanpur.
87.	Bhawani Singh, Esq., Garhwal.
88.	Bhola Gir, Rishikesh.
89.	Bhola Nath Tirpathi, Sultanpur.
90.	Bhola Gir, Pilibhit.
91.	Bhola Ram Misra, Pandit, Hardwar.
92.	Bhopal Singh, Thakur, Garhwal.
93.	Bhopal Singh, Babu, Garhwal.
94.	Bibhuti Ram, Hardwar.
95.	Bigyana Nand, Rishikesh.
96.	Binaik Singh, Chaudhri, Etawah.
97.	Bindeshwari Prasad Singh, Esq., Deputy Collector, Jhansi.
98.	Bishambher Sootri, Panda, Hardwar.
99.	Bishudhanand Ji, Rishikesh.
100.	Bishun Prakash, Babu, Rishikesh.
101.	Bishun Datt, Hardwar.
102.	Bishwa Nath, Rishikesh.
103.	Bishwa Nand Swami, Rishikesh.
104.	Bishwanand Ji, Rishikesh.
105.	Bishram Singh, Esq., Vakil, Etawah.
106.	Bishun Lal, Arora, Babu, Fyzabad.
107.	Bishun Narain Seth, Fyzabad.
108.	Bohre Ji Nathi Lal, Hathras.
109.	Bouram Das, Hardwar.
110.	Boys, Justice, High Court, Allahabad.
111.	Brahma Keto, Rishikesh.
112.	Brij Lal, Babu, Rai Bahadur, Aligarh.
113.	Brij Lal Barman, Hakim, Muttra.
114.	B. D. Chandola, Esq., B.A., LL.B., Vakil, Garhwal.
115.	Budh Tirtha, Rishikesh.



S. no.	Name and address.
116.	Chain Singh, Babu, Lucknow.
117.	Chairman Municipal Board, Unao.
118.	Chairman District Board, Unao.
119.	Chairman District Board, Hardwar.
120.	Chaitmal, Swami, Rishikesh.
121.	Chaitania Brahmchhari, Rishikesh.
122.	Champa Ram Misra, Esq., Deputy Director of Industries, Cawnpore.
123.	Chand Mal, Pandit, Hardwar.
124.	Chandmal Panda, Hardwar.
125.	Chandrika Prasad Jigyasu, Babu, Allahabad.
126.	Chandrika Prasad Bajpai, Fatehpur.
127.	Chandrika Prasad Misra, Pandit, Fatehpur.
128.	Charan Das, Rishikesh.
129.	Chhajjoo Ram Pathak, Hardwar.
130.	Chhota Ram, Hardwar.
131.	Chimman Lal Panda, Hardwar.
132.	Collector, Mirzapur.
133.	Collector, Fatehpur.
134.	Collector, Pilibhit.
135.	C. C. Das, Esq., Advocate, Gorakhpur.
136.	C. L. Saigal, Esq., Advocate, Dehra Dun.
137.	Dalip Chand Panda, Rishikesh.
138.	Damodar Das, Rishikesh.
139.	Dar, S. L., Esq., I.C.S., District Magistrate, Fatehpur.
140.	Dayanand Ji Swami, Benares.
141.	Deputy Commissioner, Gonda.
142.	Deputy Commissioner, Fyzabad.
143.	Deputy Commissioner, Naini Tal.
144.	Deva Narain Das, Mahant, Rishikesh.
145.	Devi Prasad Sootri, Panda, Rishikesh.
146.	Dharam Datt, Rishikesh.
147.	Dhoom Singh Jain, Honorary Munsif, Muzaaffarnagar.
148.	Dirgham Swami, Rishikesh.
149.	District Hindu Sabha, Basti.
150.	District Officer, Ghazipur.
151.	District Magistrate, Aligarh.
152.	District Officer, Ballia.
153.	Dobar Prasad, Babu, Rishikesh.
154.	Dunni Ram Panda, Rishikesh.
155.	Durga Datt, Pandit, Deputy Collector, Ayodhya.



S. no.	Name and address.
156.	Dwarka Prasad Mathur, Esq., Retired Deputy Collector, Main-puri.
157.	Dwarka Prasad, Lala, Etawah.
158.	Dwarka Prasad, Mukhtar, Etawah.
159.	D. Pant, Dr., B. com., P.H.D., Lucknow.
160.	Fakhr-ud-din, Esq., Member, District Board, Garhwal.
161.	Fateh Bahadur Verma, Babu, District Judge, Hardoi.
162.	Fateh Ram, Rishikesh.
163.	Fateh Ram Panda, Hardwar.
164.	Fatte Panda, Hardwar.
165.	Ganapati Iyer, P. R., Esq., B.A., LL.B., Madras.
166.	Ganga Dhar Prasad, Babu, Pilibhit.
167.	Ganga Bishun Shastri, Pandit, Benares.
168.	Ganga Das, Etawah.
169.	Ganga Nand Giri, Swami, Rishikesh.
170.	Ganga Nath Jha, Dr., Vice-Chancellor, Allahabad University.
171.	Ganga Prasad Panda, Etawah.
172.	Ganga Prasad, Etawah.
173.	Ganga Prasad Pardhan, Panda, Etawah.
174.	Ganga Prasad Panda, Rishikesh.
175.	Ganga Puri Swami, Rishikesh.
176.	Gauri Prasad, Babu, Advocate, Benares.
177.	Gauri Singh Rawat, Member, District Board, Garhwal.
178.	Bhudhar Jha Shastri, Pandit, Hardwar.
179.	Girami Rast, Member, District Board, Garhwal.
180.	Girdhar Das, Babu, Etawah.
181.	Girdhari Lal, Babu, Advocate, Allahabad.
182.	Girdhari Lal Vaish, Advocate, Fyzabad.
183.	Girdhari Lal Agarwal, Lala, Advocate, Allahabad.
184.	Goberdhan Das, Lala, Etawah.
185.	Godin Sharma, Editor, Chitrakot.
186.	Gowanand Swami, Rishikesh.
187.	Gokul Chand, Esq., Dehra Dun.
188.	Gokul Das Swami, Rishikesh.
189.	Gonganand Giri, Rishikesh.
190.	Gopal Das, Lala, Rishikesh.
191.	Gopal Singh, Thakur, Rishikesh.
192.	Gojal Tirtha, Swami, Puri.
193.	Gopendro Bhusan Chatterji, Esq., Sub-Judge, Fyzabad.
194.	Gopi Behari Saha, Babu, R. S., Partabgarh.
195.	Govind Charan Das Adhikari, Rishikesh.



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196.	Govind Chari.
197.	Govind Das, Rishikesh.
198.	Govind Das, Babu, Rishikesh.
199.	Govind Das Panda, Hardwar.
200.	Govindanand Ji, Rishikesh.
201.	Govind Singh Rawat, Garhwal.
202.	Govind Prasad Notiyal, Garhwal.
203.	Grish Chandra Sharma, Babu, Lucknow.
204.	Gurbachan Das, Swami, Rishikesh.
205.	Gur Dayal Tewari, Pandit, Advocate, Lucknow.
206.	Gur Charan Newas, Pandit, Basti.
207.	Gur Dayal Singh, Mukhtar, Collectorate, Etawah.
208.	Gur Dayal Tewari, Pandit, Vakil Rae-Bareli.
209.	Gur Din Sharma, Pandit, Banda.
210.	Gur Narain Das, Shri Mahant, Lucknow.
211.	Gur Prasad Pande, Pandit, Fatehpur.
212.	Gur Prasad Tangri, Lucknow.
213.	Gur Saran, Chitrakot.
214.	Gur Saran Das Dhowan, Babu, Fyzabad.
215.	G. M. Harper, Esq., Collector, Gorakhpur.
216.	G. P. Jaiswal, Auditor, Allahabad.
217.	G. R. Saksena, Esq., Cawnpore.
218.	Gyan Das Pujari, Kankhal.
219.	Hans Raj Panda, Rishikesh.
220.	Hans Raj Panda, Rishikesh.
221.	Hans Raj Panda, Hardwar.
222.	Hans Ram Das, Swami, Rishikesh.
223.	Har Datt Sharma, Pandit, Cawnpore.
224.	Har Deva Prasad, Babu, R. B., Advocate, Fyzabad.
225.	Har Govind Dayal Srivastava, Babu, Lucknow.
226.	Hari Chandra Pande, Rishikesh.
227.	Jageshwari Mahatma, Rishikesh.
228.	Hari Chandra Panda, Municipal Commissioner, Hardwar.
229.	Hari Das, Rishikesh.
230.	Hari Das Panda, Rishikesh.
231.	Hari Har Das, Rishikesh.
232.	Hari Das, Shri Mahant, Lucknow.
233.	Hari Krishna Raturi, Esq., Retired Minister, Tehri Garhwal.
234.	Hari Krishna Gaur, Pandit, Lucknow.
235.	Hari Prasad, Rishikesh.
236.	Hari Har Nath Muttoo, Pandit, Cawnpore.



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237.	Hari Ratan Swarup, Lala, Muzaffarnagar.
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239.	Hari Ram Sharma, Panda, Rishikesh.
240.	Hari Ram, Panda, Hardwar.
241.	Hari Ram, Pandit, Hardwar.
242.	Hari Ram Pachbhaiya, Hardwar.
243.	Hari Ram Panda, Rishikesh.
244.	Harish Chandra, Esq., I.C.S., District Judge, Benares.
245.	Hari Prasad, Swami, Rishikesh.
246.	Harnam Das, Rishikesh.
247.	Harnam Nath, Rishikesh.
248.	Harnam Sahai, Hardwar.
249.	Hindu Sabha, Agra.
250.	Hira Lal Khanna, Esq., Cawnpore.
251.	Hira Lal Panda, Hardwar.
252.	Hira Lal Sharma, Hardwar.
253.	Hira Lal, Pandit, Rishikesh.
254.	Hukum Chand Puri, Rishikesh.
255.	Hukum Chand Panda, Hardwar.
256.	Hukum Singh Thakur, Etawah.
257.	Indu Shekhar Singh, Thakur, Sitapur.
258.	Iqbal Narain Gurtu, Pandit, M.L.C., Benares.
259.	Iqbal Shankar, Etawah.
260.	Ismail Dat Kala, Pandit, Srinagar.
261.	Iyer, K. A. S., Lucknow.
262.	Jadu Ram Misra, Hardwar.
263.	Jadu Ram Panda, Rishikesh.
264.	Jagannath Pandit, Benares.
265.	Jagannath Prasad, Zamindar, Tarohan.
266.	Jagat Narain, Babu, Etawah.
267.	Jagat Singh, Etawah.
268.	Jagdamba Prasad, Basti.
269.	Jagdamba Pratap Singh, Raja, Ayodhya.
270.	Jagdish Prasad, Esq., R.B., M.L.C., Muzaffarnagar.
271.	Jagdish Prasad, Babu, Basti.
272.	Jageshri Mahatama, Rishikesh.
273.	Jageshwari Panda, Hardwar.
274.	Jai Chand Dube, Etawah.
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276.	Jai Chand Bajpai, Etawah.
277.	Jai Krishna Giri, Mahant, Secretary, Niranjani Akhara, Allahabad.



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282.	Jamna Giri, Swami, Rishikesh.
283.	Jamnanand Giri, Swami, Rishikesh.
284.	Janki Prasad, Lala, Hardwar.
285.	Janki Singh Panda, Hardwar.
286.	Jaswant Singh, Thakur, R.B., M.B.E., Shahpur.
287.	Jayanti Prasad, Mukhtar, Dehra Dun.
288.	Jenardan Das Panda, Rishikesh.
289.	Jenardan Das Panda, Hardwar.
290.	Jiwan Das, Rishikesh.
291.	Jiwan Krishna Panda, Rishikesh.
292.	Jiwan Krishna, Sadhu, Hardwar.
293.	Jiwan Ramji Panda, Hardwar.
294.	Jiwan Ram, Pandit, Rishikesh.
295.	Jorawar Singh Nigam, Babu, Advocate, Etawah.
296.	Joti Prasad, Lala, Dehra Dun.
297.	Joti Prasad Pandit, Hardwar.
298.	Joti Prasad Pandit, Hardwar.
299.	Joti Prasad Panda, Rishikesh.
300.	Jokhu Ram Gupta, Babu, Etawah.
301.	Jokhoo Ram Panda, Hardwar.
302.	Jowarnanand Giri, Rishikesh.
303.	Jugal Kishore Das, Rishikesh.
304.	Jugal Kishore Panda, Rishikesh.
305.	Jugal Kishore Panda, Hardwar.
306.	J. Nigam, Esq., Deputy Commissioner, Hardoi.
307.	J. N. Chaddha, Esq., Bar.-at-Law, Allahabad.
308.	Kailasha Nand, Swami, Rishikesh.
309.	Kalbe Abbas Naqvi, Syed, Advocate, Lucknow.
310.	Kali Charan Banerji, Babu, Lucknow.
311.	Kali Das Panda, Hardwar.
312.	Kalka Nand Saraswati, Swami, Rishikesh.
313.	Kaloo Ram Panda, Hardwar.
314.	Kaloo Ram Panda, Hardwar.
315.	Kaloo Ram, Pandit, Hardwar.
316.	Kaloo Ram Panda, Rishikesh.
317.	Kalyan Dev Swami, Rishikesh.
318.	Kalyan Singh Panda, Hardwar.



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320.	Kamta Prasad Jain, Etah.
321.	Kamta Prasad, Pandit, Sultanpur.
322.	Kanand Ram, Swami, Rishikesh.
323.	Kanhaya Lal, Pandit, Bara Banki.
324.	Karan Singh, Babu, Etawah.
325.	Koshelanand Ji, Swami, Rishikesh.
326.	Koshelanand Panda, Hardwar.
327.	Koshalendra Pratap Sahi, Kunwar, Sultanpur.
328.	Kashi Ram Panda, Hardwar.
329.	Kashi Ram Panda, Hardwar.
330.	Kashi Ram Panda, Rishikesh.
331.	K. Kaul, Esq., Additional Sub-Judge, Fyzabad.
332.	Kaveraj Ji Swami, Rishikesh.
333.	K. Prasad, Esq., Collector, Bulandshahr.
334.	Kedar Datt Sharma, Hardwar.
335.	Kedar Nath, Chaudhri, Advocate, Fyzabad.
336.	Kedar Nath Misra, Pandit, Rishikesh.
337.	Kedarnath Sharma Panda, Hardwar.
338.	Keolanand Das, Rishikesh.
339.	Kesho Das Swami, Rishikesh.
340.	Keshwanand Sharma, Swami, Rishikesh.
341.	Kharagjit Misra, Pandit, R.B., Mainpuri.
342.	Kishun Kumar Singh, Thakur, Bara Banki.
343.	Kishun Nath Swami, Rishikesh.
344.	Kishun Nath Panda, Hardwar.
345.	Krishna Ballabh Sharma, Pandit, Brindaban.
346.	Krishna Chandra, Esq., Brindaban.
347.	Krishna Chandra, B.S.C., Professor, Brindaban.
348.	Krishna Chandra Agarwal, Fatehpur.
349.	Krishna Charya, Swami, Garhwal.
350.	Krishnanand Giri, Swami, Rishikesh.
351.	Krishna Deva, Swami, Rishikesh.
352.	Krishna Gopal Achari, Rishikesh.
353.	Krishna Gopal, Zamindar, Tekli, Etawah.
354.	Krishna Gopal, Lala, Etawah.
355.	Krishnanand Brahamchari, Swami, Rishikesh.
356.	Krishnanand Panda, Hardwar.
357.	Krishnanand Panda, Rishikesh.
358.	Krishnanand Misra, Pandit, Hardwar.
359.	Krishnanand Pande, Rishikesh.



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362.	Krishna Ram Panda, Hardwar.
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364.	Krishna Pal Singh, Rao, M.L.C., Awagarh.
365.	Krishnanand Saraswati, Swami, Swargashram.
366.	Kshamapati Bajpai, Vaidya, Pandit, Lucknow.
367.	Kuchi Narsinham, Esq., Retired Head Master, Pithampura.
368.	Kula Nand Bartwal, Garhwal.
369.	Kundan Lal Agarwal, Lala, Lucknow.
370.	Lachhman Das, Mahant, Rishikesh.
371.	Lachhman Das Panda, Hardwar.
372.	Lachhman Das Panda, Hardwar.
373.	Lachhman Das Panda, Rishikesh.
374.	Lachhman Prasad Srivastava, Babu, Pleader, Lucknow.
375.	Lachhman Prasad Joshi, Sitapur.
376.	Lachhmi Chand Panda, Hardwar.
377.	Lachhmi Chand Chaube, Hardwar.
378.	Lachhmi Sahai Panda, Rishikesh.
379.	Lakshman Das, Mahant, Dehra Dun.
380.	Lakshman Saran, Mahant, Janki Ghat, Ayodhya.
381.	Lakshman Singh, Thakur, Dehra Dun.
382.	Lakshmi Narain Gupta, Babu, Vakil, Lucknow.
383.	Lakshman Singh, Dehra Dun.
384.	Leelanand Sharma, Rishikesh.
385.	Leela Nand Panda, Hardwar.
386.	L. D. Joshi, Esq., Chamoli, Garhwal.
387.	Madan Gopal, Swami, Rishikesh.
388.	Madan Mohan, Swami, Rishikesh.
389.	Madan Mohan Puri, Swami, Rishikesh.
390.	Madan Mohan, Pandit, Hardwar.
391.	Madhava Charya, Muttra.
392.	Madho Das, Rishikesh.
393.	Madho Prasad, Pandit, Sitapur.
394.	Madho Ram Misra, Hardwar.
395.	Madhusudan Dayal, Banker, Meerut.
396.	Madhuri Mohan, Babu, Etawah.
397.	Mahabir Das, Swami, Rishikesh.
398.	Mahabir Das Panda, Rishikesh.
399.	Mahabir Misra, Pandit, Lucknow.
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404.	Mahesh Bal Dikshit, Pandit, Deputy Commissioner, Kheri.
405.	Mahmanand, Swami, Rishikesh.
406.	Mai Daya, Lala, Municipal Commissioner, Hardwar.
407.	Majhawan Taluqa Board, Ballia.
408.	Makhan Lal, Swami, Rishikesh.
409.	Makhan Lal Panda, Hardwar.
410.	Makund Ram, Esq., Government Pensioner, Allahabad.
411.	Malook Chand Panda, Badrinath.
412.	Man Datt, Pandit, Fatehpur.
413.	Mangal Datt, Pandit, Hardwar.
414.	Mangal Datt Panda, Hardwar.
415.	Mangal, Gir, Swami, Rishikesh.
416.	Manna Lal, Mukhtar, Etawah.
417.	Manna Lal Panda, Hardwar.
418.	Manna Raj, Hardwar.
419.	Mani Ram Panda, Hardwar.
420.	Mannoo Ram Sharma, Panda, Hardwar.
421.	Mansa Ram, Pandit, Hardwar.
422.	Maqbool Husain Sahib, Sheikh, Collector, Jaunpur.
423.	Mathura Datt Joshi, Dehra Dun.
424.	Mathura Datt Tirvedi, Almora.
425.	Mewa Gir, Hardwar.
426.	Mehr Singh, Sardar, Dehra Dun.
427.	Misri Lal, Babu, Municipal Commissioner, Hardwar.
428.	Mohan Lal, Babu, R. B., M.L.O., Hardoi.
429.	Mohan Lal Achariya, Swami, Rishikesh.
430.	Mool Narain Tewari, Pandit, Allahabad.
431.	Mool Ram Misra, late Municipal Commissioner, Hardwar.
432.	Mool Ram Panda, Hardwar.
433.	Moti Ram Dixit, Panda, Hardwar.
434.	Moti Ram Pande, Rishikesh.
435.	Moti Ram Lala, Etawah.
436.	Madhwa Chariya Goswami, Muttra.
437.	Muktanand Swami, Rishikesh.
438.	Mukta Ram Panda, Rishikesh.
439.	Mukta Prasad Panda, Rishikesh.
440.	Mukta Prasad Panda, Hardwar.
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444.	Murli Dhar, Pandit, Kurwi.
445.	Murli Dhar, Zamindar, Agra.
446.	Murli Dhar, Khatri, Cawnpore.
447.	Rama Kant Dey, Babu, Dehra Dun.
448.	M. D. Tewari, Mr., Dehra Dun.
449.	Nand Kishore, Babu, Brindaban.
450.	Nand Kishore Panda, Hardwar.
451.	Nand Lal Manucha, Babu, Fyzabad.
452.	Nand Ram Panda, Hardwar.
453.	Nanho Ram Panda, Hardwar.
454.	Narain Das, Swami, Rishikesh.
455.	Narain Das, Swami, Rishikesh.
456.	Narain Gir, Swami, Rishikesh.
457.	Narain Prasad Asthana, Esq., Member, Council of State.
458.	Nathu Ram Panda, Hardwar.
459.	Nathu Ram Panda, Hardwar.
460.	Nathu Ram, Pandit, Rishikesh.
461.	Nek Ram, Etawah.
462.	Neka Ram Panda, Hardwar.
463.	Neja Nand, Swami, Rishikesh.
464.	Nejanand Panda, Rishikesh.
465.	Neja Nand Panda, Hardwar.
466.	Nikka Das, Shri Mahant, Salarpur.
467.	Nikka Ram, Rishikesh.
468.	Nikka Ram Panda, Hardwar.
469.	Nilkanth Ling Ji, Swami, Garhwal.
470.	Nirbhaiya Nand Ji, Swami, Rishikesh.
471.	Nitya Nand, Babu, Municipal Commissioner, Hardwar.
472.	Nitya Nand Sharma, Panda, Hardwar.
473.	Nitya Nand Panda, Rishikesh.
474.	Nono Chandra Misra, Pandit, Rishikesh.
475.	N. C. Mehta, Esq., District Officer, Azamgarh.
476.	Omesh Misra, Pandit, M.A., Allahabad.
477.	Padma Dhar Rawat, Garhwal.
478.	Padmadhar Singh Rawat, Vakil, Garhwal.
479.	Padma Singh, Thakur, Chamoli.
480.	Pakhoo Ram Dalal, Hardwar.
481.	Panchaiti Akhara Nirmala, Kankhal, Saharanpur.
482.	Panna Lal Johri, Benares.



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483.	Panna Lal, Etawah.
484.	Panna Lal Panda, Hardwar.
485.	Panna Lal Pandit, Kandouli.
486.	Paras Ram Panda, Hardwar.
487.	Prakashanand, Swami, Rishikesh.
488.	Prakasha Nand Puri, Rishikesh.
489.	Parmeshwar Nath Sapru, Pandit, Fyzabad.
490.	Partap Chandar Misra, Hardwar.
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496.	Prem Nath Swami, Rishikesh.
497.	Prem Ballabh Belwal, Pandit, Naini Tal.
498.	Premanand Swami, Naini Tal.
499.	Premanand Puri, Garhwal.
500.	Prem Lal Sah, Esq., Almora.
501.	Prem Lal Sah, Esq., Deputy Commissioner, Garhwal.
502.	Public, Brindaban.
503.	Purna Chaitanya Bharti, Swami, Rishikesh.
504.	Puran Das, Panchaiti Akhara, Naya Udasi, Kanhal.
505.	Puran Das Mahant, Dehra Dun.
506.	P. M. Khareghat, Esq., Lucknow.
507.	P. P. Sharma, Swami, Rishikesh.
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510.	Radha Charan, Babu, Manager, Sri Rang Ji Temple, Brindaban.
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512.	Radha Krishna Misra, Hardwar.
513.	Radhe Lal Panda, Hardwar.
514.	Radhika Nath Sharma, Swami, Rishikesh.
515.	Raghuber Das, Rishikesh.
516.	Raghuber Das, Mahant, Rishikesh.
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518.	Raghunandan Upadhyaya, Pandit, City Magistrate, Benares.
519.	Raghunath Singh Chaube, Etawah.
520.	Raghu Ram Swami, Rishikesh.
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522.	Ratto Ram Panda, Hardwar.
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526.	Raja Ram, Pandit, Badrinath.
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528.	Raja Ram Singh, Babu, Brindaban.
529.	Raja Ram Lala, Etawah.
530.	Ramanand Sri, Dehra Dun.
531.	Ramanand Gir, Swami, Rishikesh.
532.	Ramanand, Swami, Rishikesh.
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534.	Ramanand, Pandit, Hardwar.
535.	Ram Behari Sahi, Babu, Basti.
536.	Ram Bharose Panda, Chitrakot.
537.	Ram Bharose, Pandit, Banda.
538.	Ram Bharose Lal, Babu, Ayodhya.
539.	Ram Chandra Sharma, Hardwar.
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543.	Ram Das, Rishikesh.
544.	Ram Das Vaishnava, Rishikesh.
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546.	Ram Das, Pandit, Hardwar.
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550.	Ram Datt, Baba, Bahraich.
551.	Ram Datta Sharma, Hardwar.
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553.	Ram Ji Das Panda, Hardwar.
554.	Ram Kishore Das, Rishikesh.
555.	Ram Krishna Ji, Rishikesh.
556.	Ram Lakhan Das, Rishikesh.
557.	Ram Lakshman Das, Hardwar.
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561.	Ram Prasad, Book-seller, Etawah.
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563.	Rameshwar Das, Rishikesh.
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570.	Ram Rakha Pachbhaiya, Hardwar.
571.	Ram Rakha Panda, Rishikesh.
572.	Ram Rakha Panda Saraiwala, Hardwar.
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582.	Rup Narain, Babu, Bara Banki.
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584.	Sada Nand, Swami, Rishikesh.
585.	Sada Nand Gir, Rishikesh.
586.	Sada Nand Swami, Hardwar.
587.	Sada Nand Panda, Hardwar.
588.	Sada Nand Pandit, Rishikesh.
589.	Sahjana Nand Swami, Hardwar.
590.	Sahjna Nand Gir, Hardwar.
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592.	Salig Ram, Babu, Etawah.
593.	Salig Ram Singh, Pilibhit.
594.	Samman Lal, Babu, Advocate, Fyzabad.
595.	Saman Lal, Babu, Sultanpur.
596.	Sanatan Dharam Sabha, Allahabad.
597.	Sanatan Dharam Sabha, Farrukhabad.
598.	Sanatan Dharam Sabha, Pilibhit.
599.	Sanatan Dharam Sabha, Hathras.
600.	Santa Nand Puri, Rishikesh.
601.	Sant Ram Ji, Swami, Rishikesh.
602.	Sant Ram Nath, Swami, Rishikesh.
603.	Sant Ram, Mahant, Allahabad.
604.	Sarshutanand Giri, Swami, Rishikesh.
605.	Sarsutanand, Hardwar.



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608.	Satya Nand Gir, Rishikesh.
609.	Sase Ram, Thakur, Agra.
610.	Sewa Das, Swami, Rishikesh.
611.	Sewanand Ji, Swami, Swargashram.
612.	Shambhoo Nath, Pandit, Hardwar.
613.	Shambhoo Prasad Panda, Hardwar.
614.	Shambhoo Nath Panda, Rishikesh.
615.	Shankara Nand Swami, Rishikesh.
616.	Shankaranand Ji, Rishikesh.
617.	Shankar Datt, Pandit, Member District Board, Garhwal.
618.	Shankar Gir, Swami, Rishikesh.
619.	Shantanandan Brahmachari, Rishikesh.
620.	Sheo Narain Singh, Babu, Garhwal.
621.	Sheo Narain Singh, Babu, Garhwal.
622.	Sheo Shankar Bajpai, Cawnpore.
623.	Sheo Prasad, Pandit, Hardwar.
624.	Sher Singh, Babu, Garhwal.
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626.	Shiva Bandhan Pande, Mirzapur.
627.	Shiva Dayal Gupta, Hakim, Sitapur.
628.	Shiva Gir Swami, Rishikesh.
629.	Shivanand Saraswati, Swargashram.
630.	Shiva Narain, Banker of Delhi and Muttra, Betul, C. P.
631.	Shiva Nath Puri, Benares.
632.	Shivanath Swami, Benares.
633.	Shiva Nath Puri, Mahant Goswami, Kashi.
634.	Shri Dhar Agarwal, Babu, Bara Banki.
635.	Sidheshwari Prasad, Babu, Vakil, Fyzabad.
636.	Sita Ram, Thakur, Zamindar, Agra.
637.	Sita Ram, Lala, B.A., Agra.
638.	Sita Ram Das Ji, Rishikesh.
639.	Sita Ram Panda, Hardwar.
640.	Sita Ram Panda, Hardwar.
641.	Sita Ram Dixit, Hardwar.
642.	Sita Ram Sadhu, Benares.
643.	Sita Ram Ji, Rishikesh.
644.	Sital Prasad Brahmachari, Surat.
645.	Sital Prasad Ji, Brahmachari, Rohtak.



S. no.	Name and address.
646.	Suraj Baksh Singh, Raja, Kasmanda.
647.	Suraj Bakhsh Singh, Thakur, Bara Banki.
648.	Suraj Mal Hotri Panda, Hardwar.
649.	Surajmal Panda, Hardwar.
650.	Soti Krishna Swarup, Babu, Bijnor.
651.	S. M. Sulaiman, Esq., Judge, High Court, Allahabad.
652.	Sunkar Nath Swami, Rishikesh.
653.	Sri Krishna Kumar, Babu, Deputy Collector, Pilibhit.
654.	Sri Ram Das, Rishikesh.
655.	Sundar Lal, Babu, Advocate, Fyzabad.
656.	Swayam Joti Tirtha, Swami, Dehra Dun.
657.	S. N. Haksar, Esq., Rishikesh.
658.	Tara Nand Swami, Rishikesh.
659.	Tek Chand Panda, Hardwar.
660.	Thamman Singh, Thakur, Deputy Commissioner, Unao.
661.	Tirloki Nath Kapur, Babu, R. B. Special Magistrate, Fyzabad.
662.	Tirath Ram Bajin, Pleader, Punjab.
663.	Tirveni Das, Rishikesh.
664.	Tulshi Ram Panda, Contractor, Hardwar.
665.	T. J. C. Acton, Esq., Deputy Commissioner, Lucknow.
666.	Udho Lal, Esq., Naini Tal.
667.	Ujagar Singh Chaudhri, Etawah.
668.	U. P. Dharama Rakshana Sabha, Lucknow.
669.	Venkatchari, S. Garhwal.
670.	Venkataratnam, B., Miss, Isabella Thoburn College, Lucknow.
671.	Vidya Dhar Pandit, Etawah.
672.	Vivekanand Ji, Swami, Rishikesh.
673.	Vivas Shastri, Lavinda.



## APPENDIX H.

### Minutes of Dissent.

No. 1.—*Note written by* RAI BAHADUR PANDIT SHYAM BEHARI MISRA.

#### *Minute of Dissent.*

I regret I find it necessary to append my minute of dissent, as in my humble opinion the committee has so greatly mutilated and watered down the admirable recommendations made in the draft report, circulated by the President to members of the committee, that almost the whole object of the constitution of the committee has been sacrificed. I may be pardoned to remark that the majority of members have permitted themselves to be so hopelessly influenced and even dominated over by their Sadhu colleagues that their final report as now passed will, in my judgment, fail entirely to bring about any substantial improvement in the admittedly rotten and corrupt manner in which a large proportion of our religious and charitable institutions are run by the Mahants and others concerned.

2. I fear the very constitution of our committee was rather faulty, as it gave equal power to the very class the misdeeds of whose order or colleagues were intended to be put right, exactly as would happen if an equal number of jurors in a criminal case were selected out of the colleagues and sympathisers of the accused. I mean no reflection on the learned and saintly Sadhu members of the committee, when I say so; I am fully convinced of their *bonâ fides*, but I protest against the principle, and the results are before us.

3. I do not wish to enter into details but would simply venture to concentrate on one point, viz., the proposed constitution of the central and local boards recommended by the committee to be set up after the Charity Commissioner and his colleagues (if any) have finished their preliminary work. The central board is proposed to consist of seven Sampradâyik Grihasthas, seven Mahants and seven *virakt* Sadhus.



i.e., seven Sadhu, seven Mahant and one Grihastha members of each of the seven Sampradayas concerned. I respectfully, but most emphatically, venture to assert that such a Central Board is not at all likely to be of any effective use whatsoever; it would clearly be much weaker than even our own committee which consists of Sadhu and Grihastha members in equal proportion, as it would be wholly dominated by the Mahants and Sadhus, while the few Grihastha members would be out of their own *sewaks* or servants! It is most remarkable, rather staggering, that practically the very existence of Hindus as such has been denied by the committee in making this astonishing proposal! Hindus as such, apart from the Sampradayas to which they may happen to belong, have not been conceded any representation whatever on the proposed Board. After all it is Hindus, many of whom do not care to belong to any Sampradaya, or do not care to serve on such a Board as representatives of any particular Sampradaya, who pay for the upkeep of our religious and charitable institutions, and to repudiate their claim to control them is to my mind nothing short of scandalous. The proposal is most short-sighted, timorous, harmful and even fatal to the very conception of Hindus as a class, a people, a nation. I can be no party to such a proposal, and I intended to withdraw myself from the very membership of such a committee; I must at least repudiate the senseless proposal with all the emphasis that I can command. I hope Government will be pleased not to accept it. In my opinion, at least two-thirds if not nine-tenths of the representation on the proposed Board should be reserved for Hindus as such, and the remainder can be distributed among Sadhus, Mahants, and *sampradayik grihasthas*. It is no use suggesting that *virakt sadhus* are quite different from Mahants of temples, etc., and are not likely to side with the latter. I know from my life-long experience, and my vivid and bitter experience on this very committee, that the two classes of our "spiritual guides" will almost invariably side with one another in defeating and howling down any Sampradayik Hindu *Grihastha* who may venture to utter a word on the proposed Board against the management of even a single religious and charitable endowment.

4. Two brief points more, and I have done;

- (1) that my pamphlet, a copy of which is enclosed herewith, may please be perused and its proposals considered in this connection, and
- (2) that those religious or charitable institutions, which are endowed or run wholly or almost wholly by any Indian State or Prince, or any member of his family living within



that or any other state, may be exempted from the operation of any law that may be framed on this subject. The reasons are obvious and need not be detailed here.

(Sd.) SHYAM BEHARI MISRA.

December 18, 1930

(Copy of the Pamphlet referred to above.)

1. *Preliminary.*—In my opinion the present condition of our religious and charitable endowments is most deplorable, and we must feel grateful to Government for having appointed this committee to look into the whole question and to make suggestions for the better administration and supervision of such endowments. I have personal knowledge of some of them and a running acquaintance with a pretty large number of such institutions. I cannot give anything like an accurate idea of the waste of public money involved, or indeed of its diversion into most undesirable and shameful channels, but it appears to me that its amount may be running into one or two crores of rupees in the United Provinces. In Lucknow district alone, with which I am best acquainted, but which is not very conspicuous for the number or richness of such endowments, I think the total income of such institutions can hardly fall short of Rs. 20,000 to Rs. 25,000 per annum, while in districts like Muttra, Benares and Fyzabad it must amount to several lakhs each. Almost the whole of this vast income, derived from well-intentioned and devout Hindus, is spent upon maintaining the pampered and mostly debased and immoral *pandas*, priests and the like, while a very small fraction of it is expended on maintaining and improving the religious and charitable objects for which almost the whole of it is really meant, or on any other desirable object. It is not only improper, but positively sinful, to allow the present state of affairs to drag on any longer, and drastic steps for its immediate improvement are urgently called for.

(2) The stray provisions of the law, included in several Acts of Legislature (such as Acts XXI of 1860, XX of 1863, I of 1880, V of 1908 and XIV of 1920), have entirely failed to bring about any improvement, or even to prevent future undesirable developments, mainly for want of any specific machinery to set the law into motion



and also for lack of adequate facilities for the purpose. Public opinion and a sense of public responsibility have also unfortunately not yet developed among us to the requisite pitch. The result of all this is before us, and I must insist, with all the emphasis that I can command, upon the extreme necessity of taking very prompt and vigorous action to put an end to the shameful abuses that we have permitted to creep into our religious and charitable institutions.

(3) I proceed in the following pages to put forward my own full and fairly detailed scheme for the purpose, besides answering the Committee's questionnaire separately, and hope that the Committee and the Government may be pleased to pay serious attention to it and to adopt as much of it (if not the whole) as they can. Some portions of the scheme (such as those in paragraphs 18 to 24 *infra*) may, perhaps, be considered by some persons a bit too drastic, but it must be remembered that serious and chronic maladies require violent remedies; while after all our *pandas*, priests and the like cannot certainly claim greater consideration than our Ruling Princes who, it must be admitted to their credit, have not expressed any horror at the suggestion that they should not be permitted to spend more than 10 per cent. of the revenues of their States on their personal expenses. I hope, therefore, that neither the Committee nor Government will be scared into nervousness by any selfish agitation or threats that may be indulged into by these cankers of our society, known as *pandas*, priests, *shebais*, etc. They are bound to resent any serious proposals to put a stop to their nefarious trade and to raise altogether false cries of "religion in danger," but the tail cannot after all be permitted to wag the dog. They are meant for the good of Hindus; the Hindus are not meant for them, eternally to be made fools of and exploited.

2. *Constitution of a Central Board.*—(1) The only effective way of dealing with the great evil is to start a regular statutory organization and machinery to cope with the day to day duty of preventing our religious and charitable endowments from abuse, corruption and scandal. In my opinion a Central Board for controlling Hindu religious and charitable endowments should be constituted under statutory authority, *i.e.*, under a legislation to be introduced by Government and passed by the provincial legislature for the purpose. This proposed legislation should incorporate the most important points relating to the desired regulation and control of such endowments, leaving details to be dealt with by regulations and rules to be framed under its authority.

(2) The Central Board should consist of a president, a vice-president, a paid executive officer and 125 ordinary members. They



should all be nominated in the first instance by the Local Government; the vice-president for three years, the president for four years and the members for five years; but one-fifth of the members will retire annually by drawing lots and be replaced for the next five years by elected members to the extent of  $\frac{4}{5}$ ths of their number, and by nominated members to the extent of the remaining one-fifth. Of these latter nominated members, three shall annually be selected by Government and two co-opted by the Board itself. After five years, therefore, four-fifths of the total number of ordinary members will consist of elected members and only one-fifth nominated (15 by Government and 10 by the board itself), one-fifth of the total number (i.e., 25) being always changed annually as aforesaid. The Board shall elect its own vice-president after three years and the president after four years for a period of five years each time, subject to the approval of Government. The executive officer should always be a permanent servant of the Government, who will be requested to pay him at say Rs. 600—40—1,000 per mensem, and place his services at the disposal of the Board; he should hold this post only so long as he enjoys the confidence of the president and also of the Board's executive committee. He will always be replaced by another suitable and qualified gazetted officer, when so requested by the president or the committee. This post will never be open to any servant of the Board or any person other than a qualified Government officer. These three persons shall be *ex-officio* members of the Board.

(3) Besides the *ex-officio* and ordinary members, the Board should also have—

- (a) Patrons, who pay rupees one lakh or more at a time or Rs. 10,000 or more per annum,
- (b) Vice-Patrons, who pay Rs. 10,000 or more at a time or Rs. 1,000 or over per annum.
- (c) Extraordinary members, who pay Rs. 1,000 or more in one lump sum, or Rs. 100 or over per annum.
- (d) Additional members, who pay Rs. 500 or more at a time or Rs. 50 or over per annum.
- (e) Associates, who pay Rs. 100 or more at a time, or Rs. 12 or over per annum.

The Patrons and Vice-Patrons can send one representative each to the meetings of the Board, and may also personally attend them as distinguished visitors, while the other can personally attend these meetings, all taking precedence in their serial order. None of these



will have the right of vote, which can be exercised by the *ex-officio* and ordinary members only, but the Patrons and Vice-Patrons or their representatives, and the Extraordinary members can (with the chairman's permission) take part in the debates at the Board's meetings. The patrons and vice-patrons will be supplied with one copy each of all the publications of the Board or its committees, like *ex-officio* and ordinary members, the others shall be supplied with a copy each of the proceedings of the Board's annual meeting, the annual reports, accounts and budget estimates. The names of all will, of course, be published in the annual reports of the Board.

3. *The Electorate*.—The electorate shall consist of all Hindu members of the Board (including the *ex-officio* and ordinary members, patrons, vic-patrons, extraordinary members, additional members and associates) for the time being, and also Hindu members of the following bodies in the United Provinces, namely—(a) present and past United Provinces members of the Council of State, the Legislative Assembly and the Legislative Council, (b) present and past chairmen and vice-chairmen of the municipal and district boards, (c) members of the municipal and district boards and of notified areas, (d) registered graduates of the universities, (e) gazetted officers in active service or retired, (f) honorary magistrates, assistant collectors and munsifs, and (g) advocates, vakils and pleaders. A district-wise list of these electors shall be kept in the Board's office, being revised and corrected annually. The elections can be carried out by accepting votes received by hand or by registered post, as in case of the election of registered graduates to the University courts. न जयते

4. *The Board's meetings and powers*.—(1) The Board shall be the supreme governing body. It shall meet at least once a year at its headquarters in Lucknow, some time in November or December, in order to transact the following business, or any items of business—

- (a) to co-opt members,
- (b) to elect a president or vice-president,
- (c) to declare the names of members who vacate their office, by drawing lots (during the first four years only),
- (d) to pass the annual report and the accounts of the office and of the various Endowments,
- (e) to sanction the budgets of the office and of the various Endowments,
- (f) to elect from among its ordinary members 17 persons to serve on its executive committee numbering 20 in all, for three years.



- (g) to appoint any special or local committees, the former for conducting any special business and the latter to look after the endowments in any particular district or other local area, for a period of three years at a time,
- (h) to pass regulations, rules and resolutions, with the object of laying down policies and principles on which the affairs of the Board and of the various endowments are to be conducted, with due regard to the Acts passed by the legislature for the purpose,
- (i) to appoint members of its special tribunal (vide para. 18 *infra*),
- (j) to carry out the other duties entrusted to it under the statute, regulations and rules,
- (k) to transact any other business on the agenda, or brought forward with the sanction of the chairman, with due regard to the provisions of the statute, regulations and rules.

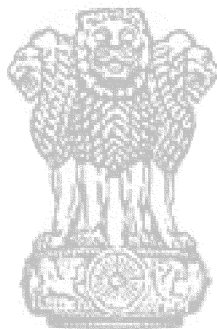
(2) A special session of the Board shall be held if the president, or the executive committee, or at least 50 ordinary members of the Board consider this necessary. The quorum shall consist of 25 *ex-officio* and ordinary members of the board, whether the meeting be ordinary or special; there shall be no quorum for an adjourned meeting.

5. *Definitions*.—In this note, unless otherwise specifically indicated :—

- (a) "The statute" means the Act or Acts passed by the United Provinces Legislative Council to regulate the control of Hindu religious and charitable endowments;
- (b) "The board" means the Central Board constituted under the provisions of the statute;
- (c) "Regulations" mean the bye-laws or rules framed by the Local Government under the statute, or by the Board with the sanction of the Government, in respect of the Hindu religious and charitable endowments;
- (d) "Rules" mean all other rules framed by the Government, or the Board, or by any committee appointed by the Board, and not inconsistent with any provisions of the statute or regulations;



- (e) "Endowment" means a Hindu religious or charitable endowment, temple, Dharmadaya, trust or other similar institution or fund, to be regulated under the statute and regulations;
- (f) "A Registered Endowment" means an endowment registered in the Board's Office for purposes of control and supervision under the statute or regulations;
- (g) "The president, vice-president, executive officer or member" shall mean the president, vice-president, executive officer or ordinary member of the Board and of its committees, as the case may be;
- (h) The manager of an endowment includes its trustees, directors, Shebais and the



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or three-fourths majority of the members present at the meeting, it or they would become binding on all concerned, unless vetoed by the United Provinces Government.

7. *Special and Local committees.*—(2) A special committee of the Board or of the Executive Committee shall meet as often as necessary and complete its business as expeditiously as possible. One-half shall form its quorum. Local committees, usually consisting of three to five members including local members of the Board and others, shall usually be appointed for a period of three years at a time, for the purpose of exercising supervision over the endowments in any district or other local area. They shall exercise the powers and carry out the duties assigned to them by the statute, regulations and rules of the Board and the executive committee. They will be formed only where local endowments are in a position to meet their expenses by contributing from 1 to 3 per cent. of their receipts for their maintenance (*i. e.*, travelling allowance and any honorarium allowable to the members for special reasons under the orders of the executive committee and in accordance with rules and regulations).

8. *The routine.*—The day to day business of the Board and the executive committee shall be conducted by the executive officer under the general supervision and control of the president whom he must consult in, and keep informed of, everything of importance and whose orders shall be obtained by him in accordance with the statute, regulations and rules, and also under any written instructions given by the president himself. They will be assisted by a paid staff and office.

9. *The President.*—The president shall have the following powers and duties :—

- (a) To keep an eye on the activities of the whole department and to see that the executive officer and the whole paid staff carry on their duties efficiently and promptly;
- (b) to see that all registered endowments in charge of the department are run properly and honestly, in the best interests of themselves and to the best advantage of the communities concerned and of the Hindus generally, and that their receipts are spent in accordance with the statute and regulations;
- (c) to preside at every meeting of the Board and the executive committee, and at such meetings of local committees as he can attend;



- (d) to pass the travelling allowance bills of his own, the vice-president, the executive officer and assistant executive officers;
- (e) to see that the accounts of the Board and of the various endowments are kept up-to-date and in proper form, and are carefully scrutinized by the executive officer and others concerned, and that they are kept within the budget allotments under various major and minor heads;
- (f) to sanction the transfer of allotted amounts from one minor head to another and (with the executive committee's approval) from one major head to another;
- (g) to grant casual leave to the executive officer and the assistant executive officers up to 14 days in a year, and all other kinds of leave to all paid servants of the board drawing not less than Rs. 100 per month and to his own personal staff, in accordance with the rules;
- (h) to pass orders on all cases submitted to him by the executive officer or called for by himself;
- (i) to appoint, promote, transfer and punish all paid servants of the Board, except the executive officer who can only be dealt with in these respects by the Local Government, the president having the power of reporting against him;
- (j) to make entries in the character rolls of the paid staff drawing not less than Rs. 100 per month at least once a year, and to report to Government what entry should be made in the executive officer's record;
- (k) to hear appeals against any appealable order of the executive officer;
- (l) to tour throughout the province at his discretion and in the interest of the work, taking his personal clerk (stenographer) and all or any of his orderly peons with him;
- (m) to take every other action that he may consider necessary in the interests of the work or of registered endowments, provided it is reasonable and not against the provisions of the statute, regulations or rules passed by the Board or the executive committee, without prejudice to the powers of those bodies;

NOTE 1.—All orders relating to the paid staff or any registered endowment shall be passed by the president either on the executive officer's report or after obtaining his views.



NOTE 2.—Any order passed by the president, under clauses (b), (h), (i) so far as it involves the dismissal of any member of the paid staff, (k) and (m) above, shall be liable to be revised by the executive committee, only if it appears to the committee to be obviously incorrect or improper, or grossly unreasonable. In such a contingency the president shall be entitled to order that the case may be placed before the next meeting of the Board for final decision, but he shall vacate the chair when that particular matter is before the Board; the vice-president or some other suitable member of the Board shall temporarily preside at the meeting on such occasions.

10. *The Vice-president.*—In the absence of the president, the vice-president shall exercise all of his powers and perform his duties, but his orders shall be subject to the president's approval and liable to revision by him. The vice-president can also carry on any other duties delegated to him by the president from time to time but no personal clerk shall be allowed to him, except that the president's personal clerk can work with him when he is carrying on the president's duties. If necessary the executive committee can allow him up to Rs. 10 per month only as part-time allowance for a personal clerk, when he may be carrying on sufficient work. He can go out on tour for a few days with sanction of the president, taking his orderly peons only with him.

11. *The Executive Officer.*—The executive officer shall, subject to the control and supervision of the president, have the following powers and duties :—

- (a) To be in charge of the board's office and to see that its business is conducted promptly, smoothly and efficiently;
- (b) to supervise and control the working of all registered Hindu endowments, and to arrange that their work must be carried on honestly and efficiently, in their own interests and to the best advantage of the communities concerned and of the Hindus generally;
- (c) to make all requisite arrangements for day to day and other work of the Board, the executive committee, local and special committees and the registered endowments;
- (d) to have in his custody all the property, records, etc., of the board and to be responsible therefor;
- (e) to carry on and look after all the work and duties entrusted to the Board, the executive committee and special committees, and to give effect to the provisions of the statute, regulations and rules; also to carry out such new rules and resolutions of the Board as may be approved by the executive committee and to place the rest at the next meeting of the board, with the opinion of the executive committee, for further consideration;



- (f) to be present at all the meetings of the Board and the executive committee, and to help them and the president besides acting as an *ex-officio* member; he will preside at the meetings of local committees attended by him, if the president or the vice-president is not present;
- (g) to keep the president and the executive committee informed of all important points connected with the work, specially the former, whose orders on everything of importance must be obtained by him;
- (h) to supervise closely and control all work of the office and of the whole paid staff of the Board, and to scrutinize the diaries of the chief auditors in particular and of the auditors in general;
- (i) to pass the travelling allowance bills of the paid staff except those of his own and the assistant executive officers, though the bills of the latter shall go to the president through him;
- (j) to sign all salary and other bills, cheques, etc., under the rules;
- (k) to keep very careful watch over the accounts section of his office and of endowments, and to sign the principal accounts-books of his office daily when he is at the headquarters, and on his return from tours, etc.;
- (l) to see that the accounts and other periodical returns received from those in charge of the various endowments are carefully checked in his office, and to re-check at least 2 per cent. of them at random personally;
- (m) to dispose of ordinary cases not requiring the president's orders, and to submit the more important ones to the president with his own note;
- (n) to grant casual leave to all subordinates, except the assistant executive officers, up to 14 days a year, and other kinds of leave allowable under the rules to the paid staff drawing under Rs. 100 per mensem, excepting the personal staff of the president and the vice-president who will deal with them personally;
- (o) to promote, transfer and punish all paid servants of the Board drawing under Rs. 100 per mensem, and also to appoint and dismiss those drawing under Rs. 20 per mensem, excepting the personal staff of the president and the vice-president as aforesaid;
- (p) to make entries in the character rolls of the paid staff drawing under Rs. 100 per mensem at least once a year;



- (q) to tour throughout the province for at least 150 days in the year and at least a week every month, in order to inspect endowments and chief auditors' offices, and to make local inquiries where necessary, taking his personal clerk and peons with him;
- (r) to take any other necessary action authorized by the statute, regulations and rules, without prejudice to the powers of the president, the executive committee and the Board;
- (s) to carry on all correspondence in the name of the president, to pass all ordinary drafts "for president" and to sign them similarly; but very important drafts must be got approved by president, while office copies of other important letters should be sent to him for information after issue of their fair copies.

NOTE 1.—All papers submitted to the president or the vice-president must usually pass through him.

NOTE 2.—Any orders passed by the executive officer, under clauses (b), (c), (e), (i), (m), (n), (o) excepting orders of transfer, and (r) above shall be appealable to the president.

12. *Qualifications of the Board's officers and members.*—(1) No one shall be eligible for election as the president of the Board unless he knows English and Hindi so well as to be able to deliver a pretty long and good extempore speech in them, is a gentleman of high position and attainments, and enjoys an annual income of at least Rs. 12,000; in case of leaders of all-India reputation, the income qualification can be waived. The qualifications for election to the vice-presidency should almost approximate to those of the president. The executive officer should have put in about ten years' approved and meritorious services as a gazetted officer, and must be between 30 and 40 years of age, with executive or administrative experience, and a graduate possessing a good knowledge of English, Hindi and Urdu. All members of the Board must be educated persons, with a fair knowledge at least of Hindi and preferably some knowledge of English also. All the officers and ordinary members of the Board must be Hindus residing or domiciled, or owning property or serving or carrying on business or some profession in the United Provinces, of over 25 years of age, good character and some position. No officer, nor more than 20 per cent. of the ordinary members, can be out of the beneficiaries in or those deriving financial advantage from any temple, *akhara*, or a similar endowment.

(2) Failure to take interest in one's duties, and to attend any meeting of the Board for two consecutive years, or of the executive or a local committee for four consecutive months or for more than six times in a year, shall involve vacation of a member's seat on the Board



or on the committee, unless the executive committee otherwise decides. A member of the Board or any committee shall also vacate his seat, if so desired by the president for any other valid reasons. Such a decision of the president shall be appealable to the executive committee whose order shall be final.

13. *The Board's staff and office.*—The head office of the Board and its executive committee shall be located at Lucknow in view of its central position. The paid staff shall consist of (a) an executive officer, as aforesaid, (b) two assistant executive officers on Rs. 200—15—350 per month each, (c) half-a-dozen chief auditors on Rs. 115—5—190 per month each, with their headquarters at Benares, Fyzabad, Allahabad, Muttra, Bareilly and Hardwar, (d) 30 auditors on Rs. 50—3—80—4—100 per month each, with their headquarters as noted in para 15 (c) *infra*, and (e) office hands, *i.e.*, (1 head clerk on Rs. 140—6—200, 3 assistant clerks on Rs. 75—5—125 each, 4 assistants on Rs. 50—4—70 each, and 8 assistants on Rs. 25—3—46 each per month, with a cashier on Rs. 25— $\frac{1}{2}$ —80 per month, 6 clerks for chief auditors' offices on Rs. 50—4—70 each, one daftari on Rs. 15 per month and 60 peons on Rs. 10 to 15 each (40 on Rs. 10 each, 10 on Rs. 11 each, 5 on Rs. 12 each, 3 on Rs. 13 each, one on Rs. 14 and one on Rs. 15 per month). The president will be given one personal clerk and 3 peons, the vice-president 2 peons, the executive officer one personal clerk and 2 peons, the assistant executive officers one personal clerk and one peon each, the chief auditors and auditors 1 peon each, the head office 5 peons including a *chaukidar*, and the chief auditors' offices 1 peon each; the remaining 4 peons to be relieving men working in the office when free. Full rules relating to the working of the office, including the custody of records, issue of copies, weeding, inspection of files, etc., etc., should be framed early.

14. *Appointments, removal, etc.*—(a) All appointments on Rs. 20 per month and over shall be made by the president on the recommendation of the executive officer. All first appointments (including the lower posts) will be made by the president, the vice-president, the special officer and three ordinary members of the Board, constituted by Government into a selection committee, the president having a casting vote in cases of equality, by selecting suitable men in Government district board, municipal board, railway or similar private service, in firms, large estates, etc., or out of other candidates if suitable men are forthcoming. The services of Government servants and such others may be obtained on loan for a fixed period, provided that their pensionary and leave contributions must be met out of the pay



they draw under the Board. All auditors, office-hands on Rs. 50 and downward and all peons must be men who accept the Board's service permanently; they will begin with the lowest salaries and will be promoted in due course as a result of their abilities, work and character. Subsequent appointments to the higher grades and posts will invariably be made by promotion of the men in permanent service of the board, if men of requisite ability, qualifications and experience are forthcoming; otherwise such appointments can be made out of suitable men selected from Government service or one of the other services specified above, provided that the men selected are willing to join the Board's service permanently.

(b) Ordinary promotions will usually be given on the basis of seniority with due regard to character and work. Government collectorate rules shall be applicable in giving promotions, unless the Board may frame its own rules on the subject.

(c) Government collectorate rules on grant of leave, punishments, removal and dismissal will also be followed till the Board frames its own rules. A service book and a character roll must be opened for each servant of the Board and kept up-to-date. Entries in the character rolls can only be made by the president or the executive officer in their own hand-writing, as per details already laid down in paragraphs 9 and 11 supra; those in the service-books must be attested by the executive officer by initialling them.

15. *Duties of the Board's servants.*—(a) The assistant executive officers shall be usually employed on peripatetic duties in making important local enquiries, inspections, etc., under the orders of the president or the executive officer; they will keep up diaries when on tour and submit them to the executive officer. When at the headquarters, they will deal with auditors' diaries, audit notes and reports thereon and also help the executive officer in controlling and supervising the work of the office and in carrying out the other work of the Board. They will never proceed on tour without previously submitting their tour programmes to the executive officer, but they will be expected to be out on tour (taking with them their personal clerk and peon at their discretion), for at least 200 days every year and 12 or 15 days every month. All points of importance must be brought to the executive officer's notice in writing.

(b) The chief auditors will remain in their own circles as detailed below, and visit the Board's headquarters only when so ordered by the president or the executive officer. They must carefully scrutinize



the audit notes and diaries submitted by the auditors of their circles take notes of important points for taking prompt action thereon, comment on the audit notes and at once forward them to the head office where they will be submitted with office notes to the assistant executive officer concerned for orders. Any audit notes of special importance must be submitted by the assistant executive officer to the executive officer for necessary action and orders. The latter will submit points of very special importance (such as forgeries, frauds, embezzlements and very serious irregularities) to the president for orders. The chief auditors will make enquiries, locally or otherwise, on the important points noted by them, and on the points on which they may be ordered by the superior officers to do so, and submit their reports to the head office promptly. They will deal with their auditors' diaries, but any points of importance must be reported to the head office where they will be put up before the assistant executive officer concerned. Their own diaries will be submitted to the executive officer through the assistant executive officer of the charge. They must also do super-audit (*i.e.* full re-audit) in respect of about 5 per cent. of each auditor's work, and do original audit of the more important endowments themselves, submitting their audit notes and reports to the head office where they will be dealt with by the assistant executive officers, the executive officer and the president in view of their importance. Three chief auditors' circles shall be allotted to one assistant executive officer and three to the other; but either officer can be required to undertake touring in any circle throughout the province, the most important tour work being of course done by the executive officer himself. Every chief auditor must see that his office clerk keeps his work up-to-date and no arrears are allowed to accumulate. The chief auditors will tour in their circles for as long as necessary in the interest of the work, but not longer; they must not take their clerks with them on tour. Their headquarters and circles shall be as below :—

- I.—Benares (comprising the Benares division);
- II.—Fyzabad (the Fyzabad and Gorakhpur divisions);
- III.—Allahabad (the Allahabad and Jhansi divisions except the districts of Etawah and Farrukhabad, but including those of Rae Bareilly and Unao);
- IV.—Muttra (comprising the Agra division and the districts of Etawah and Farrukhabad);
- V.—Bareilly (the Rohilkhand, Kumaun and Lucknow divisions, except the districts of Garhwal, Rae Bareilly and Unao);
- VI.—Hardwar (the Meerut division and the Garhwal district).



(c) The Auditors shall remain in their circles and will be expected to tour constantly therein as detailed below, at least for 250 days in the year and 20 days every month :—

S. no.	Auditor's head-quarters.	Districts comprised in each Auditor's circle.
1	Hardwar ..	Dehra Dun and Saharanpur.
2	Meerut ..	Muzaffarnagar, Meerut, Bulandshahr and Aligarh.
3	Muttra ..	One quarter of Muttra district.
4	Do. ..	Another quarter of Muttra district.
5	Brindaban ..	A third quarter of Muttra district.
6	Do. ..	The last quarter of Muttra district.
7	Shikohabad ..	Agra, Etawah, Mainpuri, Etah and Farrukhabad districts.
8	Moradabad ..	Bijnor, Moradabad, Bareilly and Budaun.
9	Shahjahanpur ..	Pilibhit, Shahjahanpur and Hardoi.
10	Jhansi ..	Jhansi, Jalaun, Hamirpur and Banda.
11	Cawnpore ..	Cawnpore, Unao and Fatehpur.
12	Allahabad ..	Allahabad, Partabgarh and Sultanpur.
13	Bindhyachal ..	Mirzapur district
14	Benares ..	One-half of Benares city.
15	Do. ..	The other half of Benares city.
16	Do. ..	The rest of the Benares district.
17	Mau ..	Jaunpur, Ghazipur, Ballia and Azamgarh.
18	Gorakhpur ..	The Gorakhpur district.
19	Almora ..	Naini Tal and Almora.
20	Badri Nath and Rishi Kesh.	One-half of Garhwal district.
21	Pauri ..	The other half of Garhwal district.
22	Lucknow ..	Lucknow, Rae Bareilly and Bara Banki.
23	Sitapur ..	Sitapur and Kheri.
24	Ajodhya ..	As much of Ajodhya as possible.
25	Fyzabad ..	The rest of the Fyzabad district.
26	Gonda ..	Gonda, Bahraich and Basti districts.
27 to 30	} The head office ..	For special and relieving duties, and for other work entrusted to them by the Executive Officer.



The auditors must keep up diaries which shall be submitted to the chief auditor concerned once a week. They shall thoroughly audit the accounts of each registered endowment in their circle at least once every year and oftener if possible, and submit detailed audit notes (for which a form shall be prescribed) to the chief auditor concerned as each is ready. The chief auditors and auditors can take their personal peons with them on tour.

(d) The head clerk shall be directly responsible for the prompt and efficient working of the head office. He will, with the executive officer's approval, distribute the work among the office-hands. One personal clerk each (being a stenographer, if possible), shall be allotted to the president, the executive officer and either of the two assistant executive officers, but they must (when free) also work in the head office; it is expected that these personal clerks will be able to work from 2 to 6 hours daily in the head office when at headquarters, and the officer concerned will have to certify accordingly whenever this becomes impossible on any day. A record of their attendance of office shall be kept up and shown to the executive officer or an assistant executive officer or, in their absence, to the head clerk daily, along with the ordinary attendance register of the other clerks and subordinates in the head office. The head clerk and his 3 chief assistants shall usually draft letters, etc., and submit them to the executive officer for approval before issue of their fair copies, except that letters, etc., relating to mere routine work of no importance, and orders to be issued to subordinates and managers of registered endowments, can be issued with the head clerk's approval only.

16. *Working of the office and qualifications of the staff.*—(a) All records, correspondence, etc., of the head and subordinate offices, shall be kept and carried on in Hindi, except that correspondence with Government and other suitable persons and institutions will of course be in English. The paid staff must therefore be well-versed in Hindi, and the higher section of it must also know English well. The executive officer, the assistant executive officers and the head clerk should usually be graduates, and must have good knowledge of English, Hindi and Urdu; while as many of the other paid servants of the Board as possible should also have a good working knowledge of these languages, being mostly High School or Intermediate passed men, excepting the lower classes of auditors and clerks whose educational qualifications must also be sufficiently high so as to enable them to discharge their duties efficiently. A good knowledge of Hindi and some knowledge of Urdu and also of English must be expected to



be possessed by even the lower classes of auditors and clerks, but the cashier need know Hindi only and the lower servants may even be illiterate. In the very nature of their work, all paid servants of the Board, as its officers and members, must be Hindus. The Board's year shall run from the 1st July to the 30th June, and all records, accounts, etc., must be kept accordingly.

(b) All notices and other papers issued to members of the Board and of the executive and other committees and to managers of endowments, shall be sent under a peon-book; or by post under a certificate of posting, the fact being noted on each cover with its serial number as per despatch register. Detailed rules shall be framed by the executive committee. If possible, service postage stamps shall be used throughout.

17. *T. A., Provident fund, etc.*—The president and the vice-president shall be entitled to 1st class travelling allowance for journeys, halts, etc., in accordance with Government rules applying to the highest heads of departments and to district officers respectively, while other members of the Board and of the various committees shall similarly draw second class travelling allowance. The paid staff shall receive their travelling allowance in accordance with Government Rules in the Revenue Department, and (with the exception of the executive officer) will also be entitled to the benefit of a provident fund to be started for them. They will deposit into the fund from one to two annas in the rupee out of their pay, and the board will contribute an equal amount from its own funds, the total amount being deposited in the Imperial Bank of India or some other reliable institution approved by Government for the purpose, so as to yield a reasonable rate of interest which will be added to the principal from time to time. The Government Provident Fund rules shall be applicable, except to the extent specified by the executive committee, which can also sanction a suitable honorarium to any paid servant of the board below the rank of an assistant executive officer, for any special work. The Board's service will be non-pensionable, but a special valedictory gratuity can be sanctioned in case of any servant of the Board or his family for exceptional reasons.

18. *List of registered endowments and their control.*—(a) An exhaustive list of all Hindu endowments, excepting those created and maintained by Indian states exclusively, and those specially exempted by the executive committee for special reasons, shall be prepared in the Board's office and kept up-to-date, with the help of district officers, district judges, the Inspector-General of Registration and



other suitable Government servants, whom Government may be pleased to direct to render such assistance to the Board.

(b) Those in charge of such registered endowments as trustees, managers, *pandas*, priests, *shebait*s or the like, shall be bound—

- (1) to report their existence and details of management to the Board's office within six months of the passing of the statute;
- (2) to furnish details of their endowed funds and properties, names and addresses of those in charge thereof as afore-said or otherwise, estimated annual receipts and expenditure, the year's accounts, and general condition, with a valuation of their movable and immovable properties, as early as possible thereafter;
- (3) to submit their detailed accounts once every half-year and a complete report and the year's accounts once every year in July, or whenever required;
- (4) to permit any officer or authorized servant of the Board (as the president, vice-president, executive officer, assistant executive officer, chief auditor or auditor), or a member of the executive, special or local committee of the Board authorised by the executive committee in this behalf, to inspect the endowment, its affairs and accounts, to make any enquiries about it and to audit the accounts at all reasonable occasions.

(c) Failure to do so, or submission of unsatisfactory reports, details, accounts, etc., if followed by reasonable suspicion of misappropriation or mismanagement, shall render those in charge of such endowments liable to removal from their office by order of the president of the Board acting in co-operation with the executive committee.

(d) Those in charge of the endowment shall be entitled to appeal against such order, within three months of its communication to them, to a *special tribunal of the Board* appointed for such purposes. This tribunal shall consist of three ordinary members of the Board, one of whom must be a judicial officer not below the rank of a district judge (whether in service or retired), another an advocate or *vakil* of at least 15 years' standing and enjoying a high status, and the third either a public man of high position or a retired revenue officer who must have been a permanent district officer in U. P. Its members may be allowed by the Board a suitable honorarium, besides 1st class travelling allowance and daily allowance, so that they may not be out of pocket or put to unnecessary inconvenience while doing the Board's work. They will hold their court in the Board's office so long as necessary, when there is sufficient work for them. One of the clerks shall work as their reader



and one peon shall be temporarily allotted to each member. This special tribunal shall hear the appellant or his pleader and the Board's representative, allow them to put in any documentary evidence, and decide each case on its merits. Should the decision be in favour of the appellant, all further proceedings would be dropped, unless the tribunal's decision is set aside by the High Court at Allahabad or the Chief Court at Lucknow on revision by the Board. In cases where the decision of the special tribunal is against the appellant, the latter will also have the option of applying in revision within three months of the order to the aforesaid High Court or Chief Court as the case may be. Such court's decision will in either case be final and conclusive.

(e) Should the manager of an endowment fail successfully to appeal against the president's order to the Board's special tribunal or to apply in revision successfully against the tribunal's adverse orders to the High Court or the Chief Court as aforesaid, the president's order shall be made absolute, after which it can be enforced through the district magistrate at the written request of the president. The endowment in question shall in that case be put in charge of the president, who will ordinarily appoint another suitable manager or trustee or trustees (1) under the provisions of any will, trust-deed, etc., under which the endowment might have been created, or (2) in accordance with the regulations framed by the Board for the purpose.

(f) A separate list shall be kept in the Board's office in respect of endowments created and maintained by Indian states exclusively, and also of those otherwise exempted by the executive committee for special reasons, together with their history, estimated income and expenditure per annum, and general condition. Those exempted from registration for special reasons can be subsequently ordered by the executive committee to be registered, and thenceforward the aforesaid provisions shall become applicable to their managers also. The Darbars of Indian states concerned can also be requested to agree to the registration of the endowments created and maintained by them; in cases of consent, the aforesaid provisions shall become applicable to such endowments as well.

19. *Checking receipts, etc.*—The Board or its executive committee shall be entitled to take steps to check and ascertain the actual receipts of any registered endowment, and those in charge of its affairs shall be bound to help the Board's agency to do so. Failure to render such help shall also involve the manager's removal as per details given under paragraph 18 above.



20. *How income of registered endowments is to be spent.*—(1) The Board must see that all receipts from all registered endowments are duly credited in the registers and accounted for, in the best interests of themselves, of the community concerned and of the Hindus in general, in accordance with the provisions (a) of any will, trust-deed, etc., on which they may be based, or (b) of the regulations framed by Government or the Board, in respect of other kinds of endowments. Subject to judicial decisions (if any), which shall be liable to revision by the High Court or the Chief Court on the application of the Board, the receipts from all registered endowments shall be spent (1) in accordance with the will or other valid document on which any endowment may be based or, in other cases, (2) on the following objects in accordance with the rules and regulations on the subject :—

- (a) allowance to the manager so long as he arranges for worship, etc., to the satisfaction of the Board and its agents ;
- (b) management and contingencies connected with the endowment ;
- (c) contributions to the funds of the Central Board and the local committee ;
- (d) the up-keep of the endowment, together with the maintenance of and repairs, additions, alterations and improvements to the premises, their approaches and appurtenances ;
- (e) grants-in-aid to or starting other desirable religious, charitable and educational institutions (whether general, special or vocational) working for the good of the community concerned or of Hindus in general ;
- (f) other desirable and utilitarian objects, approved by the executive committee, for the good of the community concerned or of Hindus generally.

(2) Not more than 10 per cent. of the net receipts, with a minimum of Rs. 10 and a maximum of Rs. 100 per mensem, if the funds permit, shall be spent under sub-head (a), about 10 per cent. under (b), and up to 7 per cent. under (c) i.e., about 4 per cent. to the central board and 1 to 3 per cent. to the local committee (if any); the expenses under the other sub-heads shall be allotted by the executive committee in consultation with the local committee concerned (if any); but the claims of sub-head (d) shall have precedence over sub-heads (e) and (f) till the premises, their approaches and appurtenances have become and continue to be suitable, commodious and in good condition for all reasonable intents and purposes, while those of sub-head (e) shall have precedence over (f). Non-recurring contributions into the funds of the Board (when necessary), and



for other suitable purposes, can be sanctioned under sub-head (f), when funds permit after meeting the essential and urgent requirements under the other sub-heads.

21. *Succession among managers of registered endowments.*—Succession among the managers of registered endowments shall take place with the sanction of the executive committee whose orders shall be appealable to the special tribunal of the Board within three months of their issue. The special tribunal's decisions shall be liable to revision by the High Court or the Chief Court, if appealed against within three months of the date of decision.

22. *Records relating to registered endowments.*—(1) the Board's office shall prepare and keep an up-to-date register of all registered endowments showing:—

(a) their brief history;

(b) their finances (opening balance, receipts and expenditure during the previous year, and the closing balance together with their budget for the current year),

(c) result of the last audit, with its date,

(d) details of the property (movable and immovable) attached to each, with its estimated value;

(e) the scheme of management, and how the present management is run, and

(f) remarks, including important remarks made by the president, the vice-president, and the executive officer, after local inspection or on receipt of reports by an assistant executive officer or a chief auditor.

(2) References to the files of each case shall be noted on the register, so that all papers connected with each endowment may be easily traceable. All files, inspection-notes, audit-notes, etc., relating to any endowment or institution shall be placed in one or more *bastas* which shall be allotted a separate serial number noted on each in legible figure. The *bastas* shall be grouped district-wise in alphabetical order with reference to the names of the endowments, in the record room.

23. *Jurisdiction of civil and revenue courts barred.*—(1) All decisions of the executive committee relating to the management, finances, etc., of the registered endowments shall, except as hereinbefore provided, be final and conclusive, and the jurisdiction of civil courts in respect thereof is barred; provided that such courts can entertain and decide cases arising between the registered endowments and any



member of the public, relating to any dispute of a civil nature not connected with their management, finances and proprietary or other alleged inherent rights in them. The civil and revenue courts shall have no jurisdiction to entertain or hear suits or applications against any authority or servant of the Board purporting to have acted as such under the statute, regulations or the rules.

(2) They will be treated as public servants, the president, the vice-president, the executive officer and the assistant executive officers being treated as gazetted officers.

24. *Management of registered endowments.*—(a) The president shall make suitable arrangements for the management of all registered endowments, in accordance with the will, trust-deed, etc., (if any) on which an endowment is based, and with the statute and regulations as sanctioned by Government and the rules framed by the board thereunder in respect of the other registered endowments, in cases where suitable and satisfactory arrangements for their effective and proper management do not, or have ceased to exist. The president's orders shall be liable to be revised by the executive committee whose revisional orders shall be final and binding on all.

(b) No registered endowment or property attached to any such endowment shall be managed by the Board direct; they must be leased out for one to three years to a suitable person or persons or institution, usually by a system of auction at which bids will be offered openly. In the absence of the Board's own rules, the Government rules regarding sales held before the revenue sale officer shall be applicable, except that the executive committee's sanction shall suffice in all cases and no sanction of any other authority shall be necessary. Sales shall be held in presence of a local committee consisting of at least three members or of any other person or persons appointed by the president where the estimated letting value of the property is Rs. 1,000 per annum or over, or by the executive officer in other cases. The sanctioning authority shall be the local committee, the executive officer or the president in cases where the annual lease-money does not exceed Rs. 200, Rs. 1,000 and Rs. 5,000 respectively and the executive committee in other cases.

(c) The endowments created in future shall be deemed to have been put under the Board's supervision by the founders other than ruling chiefs, unless specifically stated by them to the contrary in the documents creating such endowments. Subject to the provisions contained in this note, the endowments existing at present can be taken over under the Board's supervision at the discretion of the president acting in co-operation with the executive committee, under the procedure laid down in paragraphs 18 and 19 supra.



25. *The Board's funds, their custody, and expenditure.*—(1) The Board's funds shall consist of—

- (a) Annual contributions of about 4 per cent. of their yearly receipts by the registered endowments, and their non-recurring grants;
- (b) Contributions by Indian states, patrons, vice-patrons, taluqdars and other landed magnates, extraordinary and additional members and associates of the Board, and other gentlemen, recurring and non-recurring;
- (c) Donations sanctioned by Government, recurring and non-recurring;
- (d) Other sources of income;
- (e) Funds at the disposal of local committees and consisting of the contributions by the registered endowments [*vide* para. 20(1) (c) and (2)] and other receipts (if any); and,
- (f) Funds supervised by the Board and belonging to registered endowments.

(2) All funds belonging to or supervised by the Board must be kept in the Imperial Bank of India or the Government treasury or sub-treasury (with the Government's sanction), or in Post Office Savings Banks, or to a reasonable extent in approved Central Co-operative Banks lending money to co-operative societies with joint and unlimited liability at least to the extent of 75 per cent. of their total lendings. All receipts must be credited therein, and payments made under cheques issued by the executive officer, and countersigned by the president if the amount of any cheque exceeds Rs. 10,000. In cases of local committees and registered endowments, the cheques must be signed by a member of the local committee or some other gentleman appointed by the president, full accounts of all receipts and expenses being kept in the office of the committee or the endowment staff on the scale sanctioned by the executive committee. An office clerk or other person can keep a small imprest as sanctioned by the president, for daily and petty expenses. The contingent and other bills within the budget allotments shall be signed by the person empowered to issue cheques. Any bills exceeding Rs. 500 in amount, being other than one relating to any fixed monthly recurring expenditure, must be got countersigned by the president of the Board before it is presented for payment. The cashier of the head office may be permitted to keep a permanent imprest not exceeding Rs. 500, under the orders of the president, to meet urgent and petty expenses, the amount thus spent being recouped from time



to time under contingent bills signed by the executive officer. Small amounts out of this imprest can be advanced to the chief auditors' clerks and (in special cases and with the executive officer's sanction) to others as may be found necessary; full accounts of these advances will be kept by those concerned and submitted to the cashier monthly without fail, the cashier being responsible for the whole amount of his imprest. The cashier and all others dealing with money must be required to furnish suitable security under the orders of the executive officer; their security bonds will be verified at least once a year.

(3) Any surplus balances of the Board or of any registered endowment (such as the reserve fund, provident fund and other items) not required for expenditure in the near future can be invested in the Imperial Bank of India or in other gilt-edged securities referred to in the Indian Trusts Act, for a fixed term, under the sanction of the executive officer up to Rs. 5,000, and of the president in other cases, in favour of "the president of the Board of registered Hindu endowments" and not in the name of the president or any other person. Not more than the amount of any paid servant's security can at any time be kept in his hands, while others shall ordinarily keep in their hands no money belonging to or under the supervision of the Board.

(4) All expenditure must be incurred in accordance with the sanctioned budget and under the orders of the sanctioning authorities to be specified in the Finance regulations to be framed by the Board for the purpose. The ordinary expenses of the Board and of the various registered endowments will, however, continue to be incurred on the basis of the preceding year's budget, under the orders of the sanctioning authority, if the year's budget may not for any reason be passed by the Board in time, till the budget is thus passed. Extraordinary expenses can also be incurred, if urgent, with the sanction of the executive committee, in anticipation of the passing of the budget and subject to the Board's sanction at the annual meeting.

(5) So far as possible, the Board and the various registered endowments shall form and maintain a reserve fund at least equal to their respective requirements for one full year and a little more. This amount, together with the whole balance to the credit of the paid staff's provident fund and of any other special funds constituted for any specific purpose, must usually be kept invested in the Imperial Bank of India or a similar semi-Government bank or in approved gilt-edged securities referred to in the Indian Trusts Act, for a term of one year in case of the reserve fund and of any other suitable period in other cases, to be similarly extended from time to time, so as to make the balances available when



required at as short a notice as possible, consistently with the principle that it is unwise to keep surplus funds lying idle without earning a reasonable interest or profits.

26. *The annual report, accounts, budget, etc.*—(a) The executive officer shall obtain from all registered endowments and from others concerned an annual report, together with the year's accounts and a detailed budget for the next year, by the end of July or very early in August. With the help of these materials and the notes submitted by his subordinates and the office, he will prepare a draft of the annual report and accounts of the preceding year and budget estimates for the next year in English and Hindi both, by the end of August, and submit them to the president who will revise them as he thinks fit and put them up at the meeting of the executive committee to be held early in the third week of September showing the revised report, etc., to the executive officer at least three days before the date of the meeting and earlier if possible.

(b) The report shall give in an appendix separate details of opening balances, receipts, expenditure and closing balances of the preceding year, and of the budget estimates for the next year, in a brief form, in respect of all registered endowments enjoying an annual income of about Rs. 5,000 or over, with combined figures for all the registered endowments in the beginning or at the end. The names of officers and members of the Board and its various committees, of the members of the special tribunal, and of its various committees, extraordinary and additional members and associates, together with those of the assistant executive officers, chief auditors and the head clerk shall also be entered in the report or its appendices. Of course the executive officer will be helped by the office and the paid staff in preparing his report, etc., and the president will be helped by them and also by the executive officer.

(c) These documents shall then be considered by the executive committee and passed after making any modifications that may be found necessary, not later than the end of the third week of September. They will then be printed and circulated to the ordinary members of the central board, with provisional dates for the annual meeting of the Board, not later than the middle of October, inviting suggestions and resolutions by November 1 at the latest. These shall be considered at the meeting of the executive committee to be held by November 10 at the latest, at which an agenda of the business to be transacted at the annual meeting shall be finally drawn up. This agenda shall be circulated to the members of the Board, along with a notice fixing the final dates of the annual meeting



which will be held some time in the latter half of November or early in December; usually in the Council Chamber or at some other suitable place in Lucknow.

(d) At least one week's previous notice of the final dates of the meeting shall be given to the ordinary members and others concerned; it will also be advertised in the leading English and Hindi papers of the province in time to enable those interested in the work to apply for passes to attend the meeting as visitors. The patrons, vice-patrons, extraordinary and additional members and associates of the Board, besides the members of the special tribunal and various committees of the Board, the assistant executive officers, chief auditors, the head clerk of the office and other suitable officials and non-officials (including high Government officials, members of the legislative bodies and such others) shall be given an opportunity to attend the meeting as visitors as far as possible, a distinguished visitors' gallery being set apart for visitors of high rank or position. No one can ordinarily attend the meeting without obtaining a visitors' pass from the president who will, however, have the power to admit others for special reasons. Applications for passes must reach the office at least three days before the meeting. The office shall prepare a list of applicants and submit it with the executive officer's recommendations against each name, to the president who will pass orders. Passes shall be issued to the applicants in person or through their agents or friends or by post, at least one day before the first date of the annual meeting.

27. *Procedure at the Board's and its committees' meetings.*—(a) The first general meeting of the Board shall be held as soon as possible after the statute has been passed by the legislature and the initial regulations have been issued by Government on the basis of their draft prepared by a special officer (to be appointed by Government) with the approval of the president. Drafts of new proposed regulations and rules, and resolutions to be moved by members, will be considered at this general meeting and passed or referred for opinion to the executive committee to be elected thereat. The budget for the current year and also for the next year if necessary, as prepared by the special officer with the approval of the president, shall also be discussed and passed with necessary amendments at this general meeting, and other necessary business transacted, as may be included in the agenda, on the special officer's suggestions or *suo motu* by the president.

(b) The annual meetings of the Board will thereafter be held from year to year as already laid down, and special sessions can also be convened under the rules when necessary.



(c) The following procedure shall govern all meetings of the Board and of its various committees, but the president shall have the power to suspend any rules of business at any meeting if necessary, with the consent of the majority of the ordinary members present :--

- (1) The president, if present, or (in his absence) the vice-president shall usually preside at all meetings, except those of any special committee of which he may not be a member. The president can request any other exalted personage, who may happen to be present at any meeting to preside thereat, himself helping that personage with his advice. The president will, however, be responsible for the due conduct of business and must see that everything takes place in accordance with the statute, regulations, rules and convention. In the absence of both the president and the vice-president, the meeting shall select its own president for the time-being, until the arrival of the president or the vice-president.
- (2) All those present will stand up when the president's arrival is reported, and remain standing till he has taken his seat.
- (3) He will address the meeting as to the business on the agenda, or any other matter that he considers necessary to introduce.
- (4) He will then take up each item on the agenda in such order as he considers desirable, and the item taken up by him shall be open to discussion by the house. He shall regulate the proceedings as he thinks fit.
- (5) Members or others entitled to address the house and desirous of speaking on any item of the agenda, will either intimate their desire to the president in writing beforehand, or rise from their seats when that item is open to discussion. In the former case the president shall select each speaker in such order as he may think fit, and also any other authorized person who may rise from his seat similarly; in either case the president shall call on the member selected by him to address the house. No one shall have the right to address the house, without obtaining the president's permission as aforesaid; provided that the president shall, so far as conveniently possible, allow all persons entitled to speak and desirous of speaking, to address the house. All speeches must be made standing, in Hindi or English.
- (6) The president can fix a time limit to speeches when he considers this course necessary.



- (7) All speakers must address the president and not anyone else.
- (8) A speaker must sit down as soon as he is asked by the president to do so or whenever the president himself may rise from his seat to address the house.
- (9) The president shall preserve order, and all those present must obey the chair and bow to its rulings and interpretations without demur. They will, in default, be liable to expulsion from the meeting, if the president so orders. In cases of serious breach of discipline, the person concerned shall be liable to suspension for such period as the president lays down; provided that the executive committee shall, on his appeal, be entitled to revise the president's order later on as it thinks fit.
- (10) All debates must be completed with the reply of the mover and the summing up by the president or the executive officer. No one can speak on the same subject twice, except as above, without the president's special permission; provided that the president himself can do so as often as and whenever he thinks fit.
- (11) The president can apply the closure when he thinks that any subject before the house has been sufficiently debated, with reference to the business still left to be disposed of, or for other adequate reasons, and the question shall then be at once put to the house, after the mover and the president or the executive officer have summed up the debate.
- (12) All matters must be decided by a majority of votes; in cases of an equality of votes the chairman shall have a second (casting) vote. Voting shall take place in the manner prescribed by the chairman of the meeting.
- (13) The president shall be entitled to adjourn the meeting for any specified period of time or *sine die*.
- (14) He can permit discussion on any subject not included in the agenda of business, suspending any ordinary rules and procedure.
- (15) Under exceptional circumstances and for special urgent reasons the president can hold or continue a meeting, even with a slightly short quorum, provided that the decisions arrived at on such an occasion shall be liable to be revised at a subsequent meeting, if requested within one week by a majority of the members of the Board or the



committee concerned, to be held for a reconsideration of any such decision. So far as possible, an intimation of the decisions arrived at by such a short-quorum meeting shall be given to all ordinary members of the Board or the committee concerned within one day of their having been arrived at or as soon afterwards as possible.

- (16) The president shall usually deliver a valedictory address, before a meeting of the Board is adjourned *sine die*, after completion of the business on the agenda.
- (17) As full an account of the proceedings of the Board's meetings as possible shall be printed in book-form and published within one month of the last date of the meeting, or as early afterwards as possible. Proceedings of the executive committee shall be usually printed and published within a week of its meetings, but those of special and local committees need not be printed or published unless otherwise decided by the executive committee in any particular case. Those responsible for these two committees (special and local) shall, however, submit their full reports in manuscript to the executive committee within a week after their date, and they shall be considered at the next meeting of the executive committee, requisite extracts from their reports being published as appendices to the proceedings of the executive committee meetings, where necessary to illustrate those proceedings.
- (18) Printed copies of the proceedings of the Board's meetings, together with similar copies of the annual report, accounts and the budgets of the Board and the registered endowments as revised and passed at the annual meeting, shall be supplied free of cost to all classes of members, patrons, vice-patrons and associates of the Board, and so far as possible to other prominent residents of United Provinces (including members of the legislatures) not later than January of each year. Ten copies of all these shall be submitted to Government with a covering letter from the president, for information and favour of review. One copy each shall also be sent to the leading English, Hindi and Urdu periodical papers and journals throughout India and to a few in other countries, for favour of review. Copies of all these shall also be available to the public at a moderate price, not exceeding one rupee in all, exclusive of packing, postage and V. P. charges.



28. *Regulations and rules.*—(a) Detailed regulations for the management and control of and supervision over registered endowments, and for other necessary purposes, and various rules for the guidance of all concerned, should in the first instance be drafted by the special officer (to be appointed by Government) with the approval of the president and they will be considered at the first meeting of the Central Board, as already laid down.

(b) Subsequent rules and regulations for the above purposes shall be drafted by the executive officer, the post of the special officer ceasing to exist after the first meeting of the Central Board has been held and its report sent to the press. Any other ordinary member of the Board shall also be entitled to propose and submit draft rules and regulations. All these drafts, whether proposed by any ordinary member of the Board or by the executive officer, either *suo motu* or under the instructions of the president or the vice-president, shall be put up before the president who will consider and modify them as he thinks fit. These shall then be considered by the executive committee and passed after necessary modifications (if any). The regulations shall then be put up at the next meeting of the Board which can pass them as they are or return them to the executive committee for further consideration, with its own suggestions. The executive committee shall reconsider them early, and the president shall submit them to Government for sanction, if the committee has accepted the Board's suggestions. In cases of disagreement, the president shall refer them to Government for orders, stating the points of disagreement clearly for the information of Government. In either case, Government will pass the regulations as they think fit.

(c) The Board and any of its committees can frame their own rules that must not be inconsistent with the statute or any of the regulations, provided that the rules framed by the executive committee must be previously approved by the Board before they are enforced, and the rules framed by any special or local committee must be sanctioned by the executive committee before they can be enforced. The rules framed by the Board will also have to be considered by the executive committee before they are enforced. When there is a difference of opinion between the Board and the executive committee in respect of any rules passed by either of them, the matter shall be specially referred to the next meeting of the Board whose decision shall be final as in case of resolutions (*vide* para. 6 *supra*); otherwise the executive committee's opinion shall prevail.

(d) All these bodies can revise their own rules; provided that the same procedure shall apply to the passing of enforceable revised rules



as that applying to the framing of any rules by anybody. The regulations can similarly be revised with the sanction of the Local Government.

(e) Printed copies of all statutes, regulations and rules, as passed by competent authority and corrected up to date, shall be supplied to and kept in the head office and subordinate offices (including offices of various registered endowments); also by the ordinary members of the Board, who will also be supplied a copy each in Hindi or English as they like. The various offices, the *ex-officio* members, the assistant executive officers, chief auditors and auditors will be supplied with English as well as Hindi copies, both of which must be kept corrected up to date. These books, to be entitled "the Registered Hindu Endowments Manual," should also contain all forms of registers, accounts, returns, etc., that may be prescribed under the statutes, regulations or rules. Rules for the working of the various officers, keeping of records, their inspection and weeding, issue of copies, etc., shall be framed by the executive committee.

29. *Estimated cost of the proposed scheme.*—It is not easy to make anything like an accurate forecast of the estimated cost of the scheme, and nothing beyond what can be called a mere surmise is possible at this stage. I have, however, tried to frame as accurate a forecast as I could, with reference to my experience, of some such work as Registrar of Co-operative Societies in United Provinces. In my opinion the total estimated cost of the scheme during the first year of its working is likely to come to about Rs. 1·5 lakhs, for which Government may be pleased to undertake entire responsibility for one year only. In future the amount of Government contribution may be reduced to anything between one-half and one-third of the annual expenditure or even less, besides incurring the entire expenditure about the salary of the executive officer whose travelling allowance alone may be paid by the Board. The details of the first year's estimated expenditure are given below:—

	Rs.
1. Pay and travelling allowance of the executive officer (para. 2) ... ..	9,000
2. Election expenses (para. 3) ... ..	2,000
3. Travelling allowance, etc., about the Board's annual meeting (para. 4) ... ..	7,000
4. Travelling allowance, etc., about the executive committee meetings (para. 6) ... ..	6,000
5. Travelling allowance for special committees (para. 7) ... ..	2,000
6. Travelling allowance for the president's and the vice-president's tours (paras. 9 and 10) ... ..	3,000
7. Pay and travelling allowance of the Board's paid staff (para. 18) ... ..	70,000
8. Provident fund and honoraria (para. 17) ... ..	7,000
9. Honorarium and travelling allowance to the special tribunal (para. 18) ... ..	5,000



	Rs.
10. Stationery, printing and postage (for all officers, members of the paid staff and offices) ... ..	8,000
11. Rent for offices and other contingencies (including hot and cold weather, touring charges, etc.) ... ..	8,000
12. Unforeseen expenses (possibly a special session of the Board, leave allowances, etc., etc.) ... ..	6,000
13. Non-recurring charges (furniture, etc.) ... ..	17,000
14. Total expenditure (recurring Rs. 1,33,000; non-recurring Rs. 17,000) ... ..	1,50,000

30. *Conclusion.*—(a) I have tried to elaborate a fairly full and detailed scheme even at the risk of some prolixity with the object of controlling and exercising effective supervision over Hindu religious and charitable endowments throughout the United Provinces. It is hoped that the adoption of this or any other similar scheme will put an end to most of the abuses and scandals connected with these sacred and noble institutions; I expect something effective will be done with this commendable object in view. It is possible that the scheme detailed by me may be taken by some people, specially the financially interested and perhaps unthinking classes, to be a bit too drastic in some respects, but I am confident that its adoption would end in nothing but good for the Hindu community in particular and for the whole country in general. I also expect that within a few years of the adoption of this scheme the receipts from sources (a) and (b) alone, as detailed under paragraph 25 (1) *supra*, would be quite sufficient to meet the entire budgetted expenditure of the scheme.

(b) I have at present proposed what I consider to be the minimum staff for our requirements. It will probably have to be materially strengthened after we have gained some experience of the working of the scheme; but the expected receipts, as stated above, will even then suffice to meet all necessary expenditure and no financial or other trouble seems to be really likely. The scheme appears to me to be eminently worth a trial, with any modifications that may be considered necessary. A policy of hesitation and drift cannot possibly meet the situation; a little courage is all that is required to bring about really happy results.

SHYAM BEHARI MISRA.



*Note written by LALA NEMISARAN JAIN.*

1. Having been confined in jail as a political prisoner for the last seven months I have not got with me the necessary material to write as exhaustive a note as I wished. Moreover, so much time has elapsed since the recording of evidence and the preliminary discussions in the committee that now it is difficult for me to recollect all about them. In spite of all these handicaps I sign this report\* relying on all those recollections and impressions which I still retain of what had happened there.

2. I entirely agree with what has been said in chapters I--IV of the report. In fact the idea given in chapter IV of the mismanagement of the endowed properties and corruption prevalent among those responsible for their management falls much short of actual facts as disclosed by mass of respectable and trustworthy evidence on record coupled with the results of the enquiries made personally by the members of the various sub-committees. In this respect it is significant that not one witness out of five hundred and fifty-five examined before the committee could deny the existence of such mismanagement and corruption. Instances have not been wanting where persons convicted of heinous crimes have occupied the respected and holy position of Mahantship after their release from the prison. Ruinous litigation between rival claimants to the endowed properties and religious offices has been responsible to a great extent for bringing down these Mahants and Rawals—religious heads of the Hindu society—to the low level of an ordinary and unscrupulous lay litigant, and for the dissipation of such properties to boot. Any person who had had the opportunity (of knowing all about these matters) that I as a member of this committee and its various sub-committees had, is sure to declare in disgust that there is something very rotten in the state of Denmark. Although it is an unfortunate and damaging declaration, yet it is an overwhelming fact.

3. I do not share the view expressed in paragraph 72 of the report that bigger *akharas* and *maths* are any the better managed than the smaller ones. No doubt there are honourable exceptions which prove the rule, but they equally apply to big as well as small institutions. I as a member of the Garhwal sub-committee had the privilege of visiting in June-July, 1928 the sacred shrines of Shree Badrinath Jee and Kedar Nath Jee—the holy Mecca of the Hindus—and of getting first-hand information concerning their management. Both these shrines are

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\*Refers to the Minority report.



richly endowed and receive costly offerings from their devotees who flock there from all parts of India. But I was staggered to find there such a corrupted state of affairs that my sense of humanity was shocked. Some idea of their condition can be had from the perusal of the Garhwal sub-committee report with the voluminous evidence and exhibits tendered before it.

4. I fully endorse the view expressed in paragraph 78 of the report that the absence of effective control and supervision over the management of these institutions is the main cause of this growing evil of corruption and mismanagement. I maintain that there is no control, much less an effective control, over these institutions.

5. From what I have stated above it is clear that in order to minimise, if not to wholly eradicate (which under the existing condition is impossible) this evil it is necessary to create some authority which shall have at least some effective control and supervision over the management of these institutions. If I remember aright what had transpired in the last sittings of the committee, I am pretty sure that all the members including those belonging to the holy order were unanimous on the general view I have stated so far and on the necessity of creating such authority by legislation. But our differences and difficulties begin from here—when we give practical shape to the form and powers of such authority.

6. The chief and for the time being insurmountable difficulty is the existence of an alien and unpopular government which is commonly known among the masses as a Christian *raj*. An alien government by its very nature is unpopular and the people have no faith or confidence in it, nor is it strong enough to incur the displeasure of the vested interests specially when they can raise a cry of "religion in danger" in a religion-ridden country like India. It is on this account that it has wisely in its own interest kept aloof from taking any responsibility regarding the good administration of the Hindu religious endowments. Moreover, it has little love for these institutions to risk its reputation by taking any step for their proper management. Whatever little it has done it is only to keep up faces. On the other side, the Hindu mind has always been suspicious of any interference in its institutions by such a *raj*, and it has always smelt, sometimes rightly so, some mischievous design whenever such interference was suggested. The chequered career of legislation concerning these endowments since the advent of the British *raj* (vide chapters III and IV of the report) amply corroborates these conclusions.



7. Other difficulties are (1) the illiteracy and ignorance that have crept into the Hindu society owing to its long subjection to foreign rule of different and antagonising faiths and consequent absence of organised public opinion regarding religious matters, (2) the absence of any organised Sampradayik organisations, and (3) the existence of vested interests in the endowed properties. In old times such public opinion and organisations supported by the *raj* exerted much wholesome influence on the conduct of those responsible for the management of the religious institutions. Those who now claim vested rights in them were not irresponsible autocrats as they now are, but the very nature and extent of their rights then mainly depended on their piety and learning as a spiritual genius rather than on any legal well defined personal rights to be adjudged by judicial courts in accordance with the rules of Western jurisprudence—as now the case is. In those times it was unimaginable that a spiritual head would condescend to go to a secular court of law for claiming his right to any such property or office. But with the decay of the Hindu power and consequent degeneration of the Hindu society all control over these religious heads who were entrusted with the care of big endowed properties for the advancement of the various Sampradayik interest vanished, and they degenerated into irresponsible autocrats claiming vested rights in such properties, which rights they now use as a shield against any interference in their management, however grossly corrupt it may be. Now these vested interests by playing on the religious susceptibilities of the Hindu mass mind have become a force to be reckoned with which cannot be lightly treated or ignored.

8. With all these difficulties staring in the face, I have come to the conclusion that in framing a scheme for the establishment of any authority to supervise the working of these endowments the following, viz., (1) government control over them; (2) direct interference in their internal management, and (3) interference with the vested rights of the individuals should be avoided as far as practicable, while at the same time the power of general supervision and control over them so as to speedily check any waste of their properties and save them from ruinous litigation should be secured for such authority. It should be a responsible and compact body commanding confidence of the general Hindu public.

9. Applying these observations to the various schemes suggested by the witnesses before the committee, I find that of all those schemes the one vesting such control and supervision in a Board of Charity Commissioners as recommended in chapter V of the report is most



suitable and practicable. I agree with the criticism of the various schemes made in the report, and I am convinced that all the other schemes—however attractive in other respects—are impracticable under the existing circumstances. Therefore I have to reluctantly agree to that scheme subject to such modifications in details as I have suggested hereafter. I say reluctantly because I am averse to giving any powers to the incapable, and for all practical purposes irresponsible, existing Government, which by its very constitution cannot be otherwise, over these Commissioners and thus indirectly over the endowments. I have every hope that very soon full provincial autonomy with responsible executive will be in operation in these provinces, and that till then the ministers in charge of this subject, however weak and incapable they may be, shall consider it a divine trust too holy to be abused or betrayed. I also hope that the Board by its tact and patience would disarm all opposition and would be able to have its wholesome influence felt in the management of these endowments. In course of time there is every possibility, nay certainty, of the various Sampradayas organising themselves so that this nominated Board may be replaced by an elected central body of the various Sampradayas exercising its control through them. The scheme recommended is such that it will create a favourable atmosphere and pave the ground for the ideal scheme of control through Sampradayik organisations (electing such central body) by giving stimulus to the organisation of the various Sampradayas. Whenever such organisations are an accomplished fact and the power of control is transferred as indicated above, it would be to my mind a red letter day in the history of the endowments and would be welcomed by all well-wishers of such institutions.

10. I suggest the following modifications in the details of the scheme :—

(1) I would insist that Government servants of the executive branch or Indian Civil Service officers should in no case be appointed commissioners, and as far as possible non-officials of proved honesty and respectability possessing the necessary qualifications proposed in the report should be selected for such appointments.

(2) In paragraph 126 of the report it is recommended to exclude voluntary subscriptions in the case of mixed endowments from the jurisdiction of the Board. I do not agree with this view. Whatever private subscriptions or donations to any institution possessing endowed properties are given by the donors they are invariably given under the distinct impression that they will be utilised for supplementing the



income of such institutions derived from endowed properties. Therefore they should be treated as a part and parcel of such income. These subscriptions stand on quite a different footing from those given to charities depending wholly on such subscriptions. For these reasons I would recommend the inclusion of all such incomes within the jurisdiction of the Board.

(3) In paragraph 180 of the report it is recommended that the Board should not be empowered to cancel or modify any scheme settled by court under section 92 of the Civil Procedure Code. It is quite illogical on the face of it when we see that in the same paragraph it is clearly recommended that the Board would be able to modify or cancel any scheme for the administration of a trust framed by it, and further that scheme settled by court under section 92, Civil Procedure Code, shall be deemed to be the schemes settled by the Board. Apart from its illogicality this proposition is unsound in other ways as well. It would unnecessarily promote litigation, expense and delay where they could be avoided; while no useful purpose would be served by imposing this inability. I hope that no considerations of prestige of the courts which have settled these schemes is responsible for the existence of this recommendation in the report.

(4) I am of opinion that in the case of *akharas* and societies registered under the Societies' Registration Act some such provision should be made that they may not be able to evade the supervision and control of the Board under the shelter of that Act, for then other institutions would be tempted to do likewise and to resolve themselves into sham societies registered under that Act. I find that with this view it is already recommended in paragraph 192 of the report that the Act should be amended in certain particulars. But I consider those amendments inadequate and propose that further amendments be made so that—

(1) the chairman of the Board may have all powers which a member of such societies does possess of taking legal steps in the interest of the said societies against their directorate or executive;

(2) and these societies may not be allowed to change their objects without the previous approval of the chairman of the Board.

Any person who has had any experience of the working of the Act would hesitatingly corroborate my fears on this account and realise the necessity of these amendments in order to give the Board control over these institutions.

(5) I would also propose that some provision should be made so that all moneys and valuables belonging to these endowments are



invested or kept in safe custody with reliable persons to be approved by the Board.

11. Speaking for the Jain community of these provinces, I can say from what I know of it that it would not resent any legislation on the lines suggested. The problem of the Jain endowments in these provinces is not so complicated owing to the absence of vested rights of individuals, like those of Mahants and Rawals, in their properties. They should in my opinion welcome such legislation that will give them an opportunity for putting their house in order.

12. I also hope that in spite of temporary agitation which always follows any legislation on such delicate matters the Hindu society on the whole would be the happier for a legislation on these lines. But much will depend on the spirit in which such legislation will be passed and the way in which it would be worked.

13. Before I finish I must in all fairness congratulate the Hon'ble Raja Sir Rampal Singh, the president, for the tact and patience he displayed in overcoming obstruction and avoiding imminent splits which threatened the committee at many stages of its long and weary way. But for his amiable personality the committee would have been long wrecked. The choice of a painstaking secretary in the person of Pandit Suraj Nath Sapru, a gentleman of charming personality and manners which disarm opposition, has not a little to do with bringing the labours of this committee to a successful close.

14. Lastly, having done my humble mite in this committee according to my light. I fervently hope that those in power would not hesitate or delay in bringing on the Statute Book these or any other proposals which in their opinion may prove more effective in checking the growing evil of corruption and mismanagement. I earnestly pray that wise counsels may prevail with those who may take upon themselves the onerous task of legislating in the matter.

NEMI SARAN JAIN.

DISTRICT JAIL, SITAPUR :

December 10/12, 1930.



## THE HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS COMMITTEE.

While agreeing generally with the grounds urged for securing the better administration and supervision of the public religious and charitable endowments of the Hindu community in these provinces, we regret that we are unable to accept the revised scheme recommended in the report, which we consider from an administrative viewpoint to be cumbrous and unworkable. Friction is easily possible where the elements are not harmonious, and the creation or organization of Sampradayik bodies with separate electorates would only tend to accentuate the existing differences and hamper progress.

The object is mainly to enforce the keeping of proper accounts and to check and remove abuses by some simple and yet effective method, and for that purpose we recommend the scheme explained in paragraphs 106 to 224 and paragraph 227 of the Original Report, a copy of which is hereto appended. We are also opposed to the undue postponement of remedial measures which are urgently needed to stop the dissipation of trust property by mismanagement or wasteful litigation.

RAMPAL SINGH.

KANHAIYA LAL.

MOTI CHAND.

February 8, 1921.

### CHAPTER V.

#### REMEDIAL MEASURES.

106. *Measures suggested.*—We shall now proceed to consider the various remedial measures suggested for the consideration of the committee in the course of the enquiry. The suggestions comprise :—

(1) The appointment of a Protector of public religious and charitable endowments, holding a status somewhat analogous to that of the Registrar of Joint Stock Companies, with powers to maintain a record of all endowments, their constitution, property, annual income and expenditure, and the usages appertaining to succession, to call for and scrutinize annual accounts, and to seek redress, where necessary, in the proper court for the protection of the endowed property, the ejection of transferees or trespassers, or the removal of any Mahant, manager,



superintendent or trustee who is found delinquent in the discharge of his duties.

(2) A Board of one or more Charity Commissioners to maintain a register of such endowments and institutions, with powers to call for and scrutinize accounts, to prepare schemes to enforce better administration by means of temple or local committees or otherwise, to remove Mahants, managers or trustees in cases of misfeasance or malfeasance or neglect of duty, to fill up vacancies occurring by death, physical incapacity, resignation or otherwise, and generally to exercise such other powers as are exercised by the Charity Commissioners in England.

(3) A Central Board, partly elected and partly nominated, or wholly elected or wholly nominated, of such strength as may be considered suitable, with similar powers including the power to remove Mahants, managers, superintendents or trustees in cases of misconduct or breach of trust, to appoint others in their places, and to constitute temple or local committees for the proper administration of the trusts or endowments where needed.

107. *Line of least resistance.*—There is yet another alternative suggested by those who favour at the start the line of least resistance, namely, that the *akharas* or societies registered under the Societies' Registration Act (XXI of 1860) and the *maths*, *asthals* or *asthans* attached to them should be excluded from the purview of outside control or supervision and allowed to manage and administer their trusts in conformity with the rules of their constitution, that no accounts should be called for from them, and if any accounts are called for, they should only be required to submit a copy of their annual accounts or balance-sheet for record, and that temple or local committees should be constituted for the control and supervision of the other endowments and trusts, with power to seek redress in the ordinary courts when needed.

108. *Organisation of Sampradayas.*—Considerable stress has been laid in the evidence on the necessity in any event of excluding from control over endowments or institutions belonging to any particular Sampradaya of persons who have no concern with and are not the followers of that Sampradaya. The Sampradayas are divided into numerous sects and sub-sects, and it is suggested that they should be organized into definite controlling bodies, each representing the sects and sub-sects of the same Sampradaya, so as to be able to work harmoniously and exercise adequate supervision over the institutions of the different sub-divisions within the same Sampradaya.

109. *Proposals examined.*—The proposals for the appointment of Protector is more or less allied to the suggestion-



made for the appointment of a Charity Commissioner or a Board of Charity Commissioners. The authority will be derived in either case from the Legislature, which will determine the extent of the powers to be exercised by one or the other. The main objection to these proposals is that the authority to deal with matters hitherto under popular control will be thereby transferred to the persons appointed by the Government or the political party in power. Much of the force of that objection disappears when it is remembered that no interference with the internal management of the endowments is suggested by any of these proposals, that the administration of the income will continue to be vested in whatever authority or body of trustees is appointed for the purpose in accordance with the terms of the foundation or the usage of the institution, and that the Protector or Charity Commissioner will mainly have to see that the funds and property of the institution are applied to the purposes for which the institution was founded.

110. *No control wanted by Government.*—The Government does not want and has in fact persisted in refusing to exercise any control over these institutions or the funds and property belonging to them. Complaints of mismanagement have from time to time been pressed on its attention by different public bodies and members of the Indian Legislatures, but the Government has been careful not to move in the matter, awaiting to ascertain the lines which may be acceptable to the people generally and the classes concerned.

111. *Political parties unanimous.*—The apprehensions arising from the changes in the political party in power are equally out of place, for each religious and charitable institution is, like the Universities, an independent and autonomous unit, and in the matter of the protection and proper management of these institutions there is no difference of opinion either between the Hindus and Muhammadans or between the existing political parties, at any rate, in these provinces. All parties are equally anxious that they should be properly managed, and the funds and property belonging to them applied to the purposes for which the institutions were established. Religious and charitable endowments are recognised as transferred subjects, and whatever constitution may hereafter be devised for the better administration of the country, the control of religious and charitable endowments in the sense above described will continue to be vested in the Minister, who will be responsible to the Legislature, which will be the ultimate authority to guide and control his policy.



112. *Advantages of a Board.*—There is some objection to the control or supervision being vested in a single individual unassisted by any advisory or deliberative body. But purely advisory bodies have generally failed to exercise any real influence on the person in charge or the head of the administration, if by temperament he happens to be arbitrary, autocratic or impulsive; and it would be perhaps advantageous if, instead of a solitary Protector or Commissioner, a Board of Commissioners is constituted, so that whatever action is taken will be the action not of a single person but of a deliberative body vested with the requisite authority to go into all such matters. It has been pointed out to us that executive authority cannot be satisfactorily exercised by such a deliberative body, but that objection can be obviated by vesting the executive authority of the Board in the president of the Board, who will exercise it through his executive officer or secretary. The work of the Board will, during the early years of its existence, be particularly heavy and exacting and whole-time Commissioners may perhaps be needed to secure efficient working. At any rate, the president should be a whole-time officer, for the executive powers of the Board will be exercised through him. The co-operation of other Commissioners will be needed mainly in connection with administrative matters and enquiries coming up before the Board for decision, and it may be possible to find persons willing to act in that capacity on such daily allowance as may be fixed for attendance at the sittings.

113. *Need for smooth and efficient working.*—It is desirable, however, that the Board should be a small and effective body to be able to ensure expeditious, smooth and efficient working. The larger the number of Commissioners the greater will be the expense, difficulty and delay in the work of administration, and it is thought that with the local or temple committees working in the interior a Board of not more than three Commissioners would be sufficient for the work of general superintendence and supervision. The Commissioners should have the power to divide, if they like, their work and functions connected with the inspection or supervision of different institutions in such manner as they may consider expedient.

114. *Formation of Central Board.*—The formation of a Central Board is the other alternative strongly pressed before the committee. The strength of the Board has been variously suggested from 7 to a maximum of 125 members by different witnesses during the enquiry. The question of the constitution of such a Board, whether by election or nomination or partly by election and partly by nomination, is a matter on which the evidence given has been most divergent. Some



witnesses have suggested that electorates should be formed of men belonging to different Sampradayas or connected with different religious endowments and trusts, and should include house-holders of a certain education and standing, and electoral circles should be formed for that purpose in each division or district or group of districts. Others propose that the power of electing representatives should be given to certain recognised institutions like the Legislative Council, the Municipal and District Boards, the Agra Landholders' Association, the British Indian Association, the Universities and similar other bodies. Some others have suggested that the representation should also be given to religious or quasi-religious bodies like the Hindu Sabha, Sanatan Dharma Sabha, the Bharat Dharma Mahamandal, the U. P. Dharma Rakshana Sabha, the Arya Pratinidhi Sabha, the Brahmo Samaj, the Singh Sabhas, the Jain Panchayats and other such institutions in the United Provinces.

115. The constitution of many of these institutions is of an indefinite, fluid or fluctuating character. The people outside those bodies are vastly more numerous than those inside them, and to deny the representation to the one and to grant it to the other would be manifestly unfair.

116. *Separate representation of Sampradayas difficult.*—The question of granting separate representation to different Sampradayas, sects and sub-sects is still more difficult, for these Sampradayas do not want any interference by house-holders or people outside their fold. It would not be easy to fix by law the proportion in which the different sects or sub-sects are to be represented in the Board, and with the existence of numerous sects and sub-sects elections may hamper the selection of proper men for the nature of the work required.

117. *Parties and factions harmful.*—A large Central Board would be, moreover, unmanageable and expensive and lead to the creation of parties and factions within the Board, which would militate against its harmonious working and cause delay and difficulty in the proper disposal of business. The expenses of periodical elections will be heavy and their regulation difficult and, with the public apathy on one side and a natural desire for self-protection on the other, the result of direct representation may be embarrassing. If it were possible to secure a harmonious blending of popular and vested interests, the advantages of popular control cannot be gainsaid. But strict and impartial administration cannot always be secured except by appointing the best men available to supervise the administration of the trusts for which a large



Central Board, recruited by direct election or nomination by non-religious bodies, would be wholly unsuitable.

118. *Element of responsibility.*—A Board of Commissioners appointed by the Local Government, acting with the Minister in charge of the subject, will be responsible to the Legislature, which will in turn be responsible to the people, and the exercise of popular control will thus be indirectly and yet effectively secured. The Charity Commissioners will be appointed for a certain period of time, and with a Board of Commissioners presided over by a person of some administrative or judicial experience or legal training the supervision of the religious trusts and endowments is likely to be more effective.

119. *Form of control in England.*—In England, a markedly democratic country, the control of ecclesiastical property attached to the church is vested in the Ecclesiastical authority, and of charities existing for parochial purposes, in the Parish Councils; and the Board of Education exercises control over educational institutions. The administration of all other charitable trusts is to a very large extent controlled by the Board of Charity Commissioners appointed under the Charitable Trusts Act, 1853 (16 & 17 Vic. C. 137). By the administrative powers given to the charity commissioners by that Act, and by the other Acts subsequently passed between 1853 and 1894, a recourse to the jurisdiction of the High Court to administer a charity has to a very great extent been obviated, and the result has been that charities generally have to a great extent been benefited by the extensive powers given to the Charity Commissioners and more particularly in the matter of legal proceedings, the responsibility and trouble of which, persons however keenly interested, are individually unwilling to undertake owing to risk, reluctance, pre-occupation or other causes, which are as operative here as in that country.

120. *Control by Municipal and District Boards.*—Section 152 of the U. P. District Boards Act (X of 1922) and section 119 of the U. P. Municipalities Act (II of 1916) permit any property, endowments and funds, belonging to any public institution, being vested in or placed under the management and control and administration of a board in trust for the purposes to which such property, endowments and funds are lawfully applicable, at the time when the institution becomes so vested or is so placed. But the District and Municipal Boards have much legitimate work of their own to be able to manage and control endowments and trusts which may be entrusted to their management, and a separate board is needed to deal with the superintendence, control and protection of such public religious and charitable endowments and trusts.



121. *Control in Indian States.*—The supervision of the management of temples and religious places is recognised in almost every Indian State as one of the essential functions of government. The Ruling Princes are deeply interested in the well-being and advancement of religious institutions. Many of these institutions had been founded or endowed by their ancestors, and most of them receive or used to receive periodical pecuniary contributions from the State. The leading Indian States have therefore made provision for the protection of religious and charitable endowments by the appointment of a Minister or Superintendent to look after these institutions.

*Baroda State.*—In the Baroda State for instance, the State has a department of endowments under an officer called the *Devasthan Adhikari*, who controls the institutions that receive aid from the State or over which the State has undertaken to provide supervision.

*Gwalior State.*—In the Gwalior State, a Central Committee working through district and tahsil committees is provided to look after public religious and charitable endowments, and the members of the Central Endowments Committee and district committees are appointed by the State, and those of the tahsil committees are appointed by the *Suba*, or the district officer, with due regard to the wishes of the people, and they exercise supervision over aided institutions and also over others placed in their charge by an order of the court or at the request of the sect to which they belong.

*Hyderabad State.*—In the Hyderabad State there is a Superintendent of Religious Endowments for the whole State with provincial district and taluqa superintendents of Endowments under him, and they are required to maintain a register of endowments and supervise their management to prevent the misappropriation of the trust funds.

*Mysore State.*—In the Mysore State some powers are given by Regulation VII of 1927 to the *muzrai* officers, including the Deputy Commissioners and Assistant Commissioners to look after *muzrai* institutions, that is, those receiving a grant-in-aid from the State or under State management; and in regard to the remaining institutions other than Maths, the *muzrai* officer is allowed, with the sanction of the State, to take over the management of any institution, or to obtain security for the due performance of a trust, or to frame a scheme for its management, subject to the right given to the party aggrieved by the order of the *muzrai* officer to sue for its cancellation in the principal civil court of original jurisdiction, within whose local area the greater part of the property of such institution is situated. The Regulation further provides that in certain specified cases the Government can take



over the possession and management of a Math and its property, and direct an enquiry to be made into any complaints of mismanagement, misapplication or alienation of the *math* property by a committee of not less than three persons, one of whom should be a disciple or other person interested in the Math.

Other Indian States have also made suitable provision for the protection of the property of religious and charitable trusts and endowments.

122. *Palliatives not enough.*—In British India the existing provisions have, as already pointed out, been found to be inadequate. The Societies' Registration Act (XXI of 1860) exercises little or no control or check over the Akharas and societies registered under that Act, and the relegation of the control to the ordinary courts has proved ineffective. Mere palliatives are not enough to cure a malady, requiring a more drastic remedy, and the provision of a central authority to take accounts and prevent the mismanagement of religious and charitable institutions is urgently needed. A Board of Charity Commissioners not exceeding three in number to be appointed by the Local Government on such remuneration or allowance as may from time to time be fixed would be most suited for the purpose. We recommend accordingly, that the general superintendence, control and supervision of Hindu public religious and charitable endowments and trusts be vested in a Board of not more than three Commissioners, to be appointed by the Local Government on such remuneration or allowance as may from time to time be fixed. The Board would be a body corporate, entitled to sue and be sued in its own name.

123. *Scope of authority.*—We have next to consider the scope of the authority to be assigned to the Commissioners. The Madras Religious Endowments Act (II of 1927) is confined in its operation to religious endowments. But charitable endowments are far more numerous; and if not of more, at least of equal importance; and they deserve to be included within the purview of the Board. Religious places are very largely visited by the people of all classes throughout the year, and acts of mismanagement can easily come to the notice of the beneficiaries, if they care to assert their rights. Charitable endowments do not, however, come within the purview of the public to the same extent, and the persons for whose benefit they have been founded may be scattered far and wide. They serve a wider purpose and the need for their superintendence or supervision is equally great and urgent.



124. *Extent of jurisdiction.*—The functions of the Board should extend to all public foundations and institutions belonging to the Hindu community or any sect or section thereof, which are or may be endowed for religious or charitable purposes. But there are certain classes of institutions, such as the universities, colleges and schools, existing in these provinces, which have been incorporated under some existing statute or registered under an existing Act of the Legislature. There are other societies registered for other charitable purposes of a public nature. These institutions are autonomous bodies, the administration of which is regulated by their own constitution, as laid down in the statute or memorandum of association under which they were established, and it is not necessary that they should be placed under any further control.

125. *Unendowed charities.*—There are besides various charitable institutions in the country founded or created for the relief of persons or cattle, the maintenance of which very often depends on the funds or subscription they may have at their disposal or that may be realized in any particular year. If there are no endowed properties held by them, there would be no standing public interest which the State should be required to protect. They may have no permanent income; and donations are not always regularly realized; and it would be undesirable that the Board should take the responsibility for the management or superintendence of these institutions. Unendowed charities are excluded from the jurisdiction of Charity Commissioners in England; and we think that the same principle ought to be adopted here. There are numerous dispensaries, poor houses, widows' homes, reading rooms, *gaushalas*, orphanages and other similar institutions scattered in different parts of the country. They eke out an uncertain or ephemeral existence, depending very largely on the subscriptions or charitable contributions received from time to time from individual donors. They flourish while the funds continue to come and fade when they cease; and there is no legal right or corresponding duty by which the flow of charity for their expenses can be maintained. It would be inexpedient for the Board to take any burden or responsibility in regard to them if there are no endowments attached to them. We recommend accordingly that the Board shall exercise jurisdiction over all public endowments and institutions belonging to the Hindu community, or to any sect or section thereof, which are or may be endowed for religious or charitable purposes, other than societies or institutions incorporated or constituted under any Act of the Legislature, or unendowed charities or institutions founded solely for imparting education or for the



charitable relief of persons or cattle and maintained and carried on wholly by voluntary contributions.

It would not be desirable to fix any minimum pecuniary limit of income to exclude institutions, not having an annual income exceeding that amount, from the cognizance of the Board, because apart from the fact that the annual income may be liable to variation each year, religious institutions require protection from vandalism irrespective of their income, and Dharmashalas, Ghats, tanks and reservoirs, like those existing for instance at Nimsar and Kurukshetra, require to be protected, though they may have no income of their own.

126. *Mixed resources.*—Generally, however, there may be cases where the charities are maintained partly by the income of endowments and partly by voluntary subscriptions; and it is not intended that in such cases the jurisdiction of the Board should be wholly excluded. There may also be cases, where the money collected may be invested in property or other securities, or set apart for some definite object connected with the foundation. Where the capital of the endowment can be utilized as an income, the endowment should similarly be excluded. We recommend accordingly that in the case of mixed charities or religious institutions, that is to say, those maintained partly by voluntary subscriptions and partly by the income of an endowment, the jurisdiction of the Board should not extend to the voluntary subscriptions or to the amount so collected, unless the same is invested or set apart for some definite public object, connected with the foundation or trust.

127. *Mixed objects.*—There may also be cases where endowments have been created or property given partly for religious and charitable objects and partly for secular purposes, and the instrument of foundation or the deed of endowment may contain no provision, allocating the funds or properties separately for each of the purposes aforesaid. Section 21 of the Religious Endowments Act (XX of 1863) empowers the Board of Revenue in any case in which any land or property has been granted for support of an establishment, partly of a religious and partly of a secular character, to determine, before transferring such land or property to any trustee, superintendent or committee of management, what portion, if any, of the said land or other property, shall remain under the superintendence of the said Board for application to secular uses and what portion should be transferred to such trustee, superintendent or committee. Section 77 of the Madras Religious Endowments Act (II of 1927) em-



powers the Board in similar circumstances to determine what portions of such endowment or property or of the income thereof shall be allocated to the purposes falling within the Act.

128. *Allocation of income or property.*—In some cases the amount of income to be applied to secular uses and the amount to be applied to religious and charitable purposes may have been separately specified or set apart in the deed of endowment. In those cases, all that is needed is that the Board should have the discretion or power to claim an account if it thinks proper, of the whole endowed property and of the application of its income to the various purposes prescribed by the author of the trust. But where no such specification is made, the Board should have the power to determine what portion of the property or income should be allocated, consistently with the intention of the author of the trust, to religious or charitable purposes and to secular uses separately, and to direct the application of the same accordingly. We, therefore, recommend that where an endowment has been created or property given partly for a religious or charitable object, and partly for a secular purpose not falling within the jurisdiction of the Board, it shall be open to the Board to undertake the control of the whole trust, or to determine what portion of the property endowed or the income thereof, shall be allocated to religious or charitable purposes, falling within the purview of the Board. The whole or such portion of the property or income thereof shall thereafter be administered, as if it were an endowment for religious or charitable purposes alone.

129. *Qualifications of Charity Commissioners.*—The success of the scheme will depend largely on the selection of suitable men for appointment as commissioners. They should unquestionably be all Hindus preferably persons of some position or standing with a religious bent of mind to be able to inspire confidence among all classes. The term "Hindu" is not capable of a precise definition. Every person who calls himself a "Hindu" is regarded as a Hindu; and the designation covers Hindus of any faith, sect, sub-sect or sub-division whatsoever, including Arya Samajists, Sikhs, Jains and Brahmos. They have been so recognized by judicial decisions<sup>(1)</sup>. A Commissioner should cease to hold his office if he ceases to profess the Hindu religion.

130. *Qualifications of President.*—Section 11 of the Madras Act (II of 1927) provides for a Board, consisting of a President and such number of commissioners, not being less than two nor more than four, as the Local Government may fix. Section 12 of that Act provides that

(1) Dharam Singh versus Kissen Singh, I. L. R., 7 Cal., 767 (Sikhs).

Rani Bhagwan Kuar versus Jogendra Bose, L. R. 30, I. A. at page 257 (Brahmos).

Tha-kersey versus Hurbhum, I. L. R., 8 Bom., 432 (Jains).



commissioners shall be persons professing the Hindu religion. It also lays down that the President shall be—

- (a) A Barrister-at-law of England or Ireland of not less than five years' standing, or
- (b) a person who has practised as pleader for a period of not less than 10 years, or
- (c) a person who has held judicial office not inferior to that of a Subordinate Judge or of a Judge of Small Cause Court.

In our view the President of the Board should be a person of some administrative or judicial experience, or one who has acquired legal training and experience by practice at the bar for not less than 10 years. He will have to guide the deliberations of the Board and preside over the enquiries, and the executive powers of the Board will also be exercised through him. The other commissioners may be either Sadhus or Grihas-thas (house-holders) found eligible for the post.

Our recommendation, therefore, is that the Charity Commissioners should be persons professing the Hindu religion, and a commissioner who ceases to profess the Hindu religion shall be disqualified to hold that office; that the President of the Board shall be a person who has either held administrative or judicial office in the provincial judicial or executive service, or other higher office for a period of not less than ten years or has practised as an Advocate or Pleader for not less than ten years, and that the executive powers of the Board shall be vested in the President and exercised through him.

131. *Term of office.*—We do not consider that ordinarily the commissioners, including the President, should hold office for a period exceeding five years. They may be appointed for a shorter term, but without some security of tenure no uniformity or continuity of policy can be secured. In fact, outside the services a suitable man may not be willing to take up the appointment for a shorter term. When a commissioner is appointed President of the Board, the period for which he has held the former appointment, should be included in computing the term of the latter; but an outgoing President or commissioner should be eligible for re-appointment, if he is otherwise qualified. We accordingly recommend that every commissioner, including the President, shall hold office for a period not exceeding 5 years from the date of the appointment; but if on the date of his appointment as President he was a commissioner, such President will be entitled to hold office as



President only up to the expiry of his term as commissioner, and that the outgoing President or commissioners shall, if otherwise qualified, be eligible for re-appointment.

132. *Powers of suspension or removal.*—The appointing authority should have the power of suspension or removal before the prescribed term in certain circumstances. Section 15(1) of the Madras Act (II of 1927) provides that the Charity Commissioner shall be liable to suspension or removal from office—

- (a) if he is convicted by a criminal court of any offence which in the opinion of the Local Government involves moral turpitude; or
- (b) if he becomes of unsound mind or a deaf-mute or suffers from contagious leprosy; or
- (c) if he applies to be adjudicated or is adjudicated a bankrupt or insolvent; or
- (d) for corruption, misconduct or other sufficient cause.

We propose that a similar provision be made here, authorising the suspension or removal of such a person from office by the Local Government—

- (a) if he is convicted by a criminal court of any offence which in the opinion of the Local Government involves moral turpitude; or
- (b) if he becomes of unsound mind or otherwise physically incapable of performing his duties; or
- (c) if he applies to be adjudicated or is adjudicated a bankrupt or an insolvent; or
- (d) for corruption, misconduct, or other sufficient cause.

133. *Functions of the Board.*—The Board shall combine the functions of a record officer with the functions of an officer taking measures for the protection of endowed property against loss, wastage or alienation or the diversion, misappropriation or misapplication of its income. In England the Charity Commissioners have, in certain circumstances, also power to direct the *cypres* application of a charitable gift, if the particular purpose named fails either initially or subsequently, or where the machinery prescribed for effectuating the charitable intention fails, or where a surplus remains after satisfying the objects mentioned, with a view to provide a simple and an economical way of carrying out the charitable intentions of the founders, when such intentions are inadequately expressed in the instruments of foundation. The



powers of the Commissioners are partly of an inquisitorial and administrative nature and partly of a judicial or quasi-judicial character. But the Commissioners are in no sense administrators of the income, which must be dealt with by the trustees within the limits prescribed by the founder or with such variation as may be duly authorized.

134. We propose to assign similar functions to the Board of Commissioners here and we recommend accordingly that the Board shall keep a record of all Hindu public religious and charitable endowments and institutions in the United Provinces, and adopt measures to protect the properties belonging to them against loss, wastage or alienation, to check and stop the diversion and misappropriation or misapplication of the income, property or funds of such endowments or institutions in any manner inconsistent with, or contrary to, the objects of the trusts, and to provide a simple or economical way of carrying out the religious or charitable intentions of the founders, where such intentions are inadequately expressed in the instruments of foundation.

135. *Three classes of religious endowments and trusts.*—The Board will have to deal principally with three classes of religious endowments and trusts. There are temples and Maths where the manager or Mahant holds his office by hereditary right, and the succession passes in accordance with the established practice either from the father to the son, or from the Mahant to his chief disciple or the disciple nominated by him in his lifetime. The right to administer the endowment and to take the offerings passes in such cases to the person who succeeds to the *gaddi* or administrative charge, and the right to the performance of worship at the temple, if allied, passes by succession to the heir-in-law. The latter right is often divided and sub-divided into numerous shares, and to facilitate distribution, a turn of worship is assigned to each co-sharer who takes the offerings on the days allotted to his share. Where the right of succession goes by nomination to the disciple, no such difficulties arise, but the question of the person entitled by succession to the *gaddi* is often a vexed and complicated question of fact.

There is another class of endowments where the office of the Mahant or manager is elective, and the presiding Mahant is selected by an assembly of Mahants or persons interested in the management.

The third class consists of temples and Maths in which the right of appointment of the presiding Mahant is vested in the ruling power or civil authority, or the person who endowed the temple or his heirs<sup>(2)</sup>.

Some Akharas have lately got themselves registered under the Societies Registration Act (XXI of 1860) and follow the constitution laid down

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(2) Ram Prakash versus Anand Das, L. R., 43, at page 77.



in the Memorandum of Association. Others have an independent existence and carry on their own administration according to their conventions and usages. Then there are Maths, Asthans or Asthals, belonging to the Sampradaya to which some of the Akharas belong, but which are not attached to any particular Akhara or Society.

136. *Register of endowments and trusts.*—Disputes about the history and constitution of those Maths, Akharas, Asthals, or Asthans frequently arise, and it is desirable that a register should be maintained by the Board of all Maths, Akharas, Asthans, temples and other religious or charitable institutions of a public nature, giving the necessary information about their history, constitution and objects, the property, movable and immovable attached thereto, with the approximate value and income thereof, and the custom or usage as to the appointment, election or succession of Mahants, trustees or managers.

137. *Musalman Waqf Act.*—Section 3 of the Musalman Waqf Act of 1923 requires that within six months of the commencement of the Act every *mutwalli* shall furnish to the District Court within the local limits of whose jurisdiction the property of the Waqf, of which he is a *mutwalli* is situate, a statement giving the following particulars:—

- (a) Description of the Waqf property sufficient for the identification thereof.
- (b) The gross annual income from such property.
- (c) The gross amount of such income which has been collected during the five years preceding the date on which the statement was furnished, or of the period which has elapsed since the creation of the Waqf, whichever is shorter.
- (d) The amount of government revenue and cesses and all rents annually payable in respect of the Waqf property.
- (e) An estimate of the expenditure annually incurred in the realization of the income of the Waqf property.
- (f) The amount set apart under the Waqf for the salary of the *mutwalli* and allowances to other individuals and for purely religious and charitable purposes.

138. Every such statement is required under that Act to be accompanied by a copy of the deed or instrument creating the Waqf, or if no such deed or instrument has been executed or a copy thereof cannot be obtained, it shall contain full particulars, so far as they are known or ascertainable, of the origin, nature or objects of the Waqf. An obligation is placed on the person, creating the Waqf or any member of his



family, or any of his descendants entitled to claim any benefit under the Waqf, to furnish the above particulars, so that a permanent record might be maintained of all Waqfs, existing or to be created hereafter, for future use. The Act provides safeguards against misleading or insufficient particulars being furnished to the Court.

139. *Particulars to be furnished.*—The Board should require some such particulars to be furnished by the Mahants, superintendents or managers of every public religious or charitable endowment or trust, belonging to the Hindu community or any sect or section thereof, now existing or to be created hereafter within such time as may be prescribed; and these particulars should include, what is most essential in the case of Hindu public religious and charitable endowments, full information about the history, constitution, management, property, income and expenditure of these institutions.

140. Sections 38 and 39 of the Madras Religious Endowments Act (II of 1927) similarly provide for the registration of endowments and for the verification of the entries made therein. In England a similar provision is made by the Charitable Donations Registration Act, 1812 (52 George III Chapter 102) and for certain purposes by the Places of Religious Worship Registration Act, 1855 (18 and 19 Victoria Chapter 81).

141. In these provinces temples, *maths*, Dharmashalas, and other charitable and religious institutions are scattered far and wide, and no measures can be adopted for their protection and for following the trust property in the hands of strangers or transferees until a record is maintained giving the full particulars referred to. There are temples, Dharmashalas, tanks, wells, Ghats and other places constructed for the public benefit, which are lying in many places in an unprotected state. The Ancient Monuments Preservation Act (VII of 1904) provides for the protection of ancient monuments and constitutes the Collector a guardian of the monuments placed under his charge. The Board would similarly be the guardian or manager of all unprotected religious or charitable endowments or institutions not specifically in the charge of any specific body of trustees, superintendent or manager; and a tablet should be fixed at every one of those places showing that it was a protected place in the charge of the Board.

142. *Record of usages and custom.*—In the case of religious institutions it is equally important to ascertain and record the special customs and usages followed in the particular temple or institution, for as observed by the Judicial Committee in *Raja Muthu Ramalinga Setupat versus Perianayagun Pillai* (L. R. I. I. A. 209 at page 228) the constitution



and rules of religious brotherhoods attached to Hindu temples, are by no means uniform in character, and the important principle to be observed is to ascertain as far as possible the special customs and usages governing the particular community whose affairs are likely to form the subject of litigation or inquiry and to be guided by them. In the absence of documentary or other direct evidence of the nature of the foundation and of the rights, title and powers of the trustees, the only law as regards the office, duties and functions of Mahants, managers or other persons in charge of the religious institutions is to be found in the custom or practice, regulating the particular institution, which must be proved by testimony and it would be to the public interest if, before such disputes arise, such instances and practices as to religious rites, appropriation of income or offerings or succession are ascertained and recorded.

143. *Compulsory registration.*—We recommend accordingly that a register shall be maintained by the Board of all Maths, Asthans, temples, Dharmashalas, endowments or other institutions for religious or charitable purposes of a public nature in these provinces, giving the following particulars in regard to each :—

- (a) The history of its constitution, foundation or origin ;
- (b) the constitution of the committee of management or trustees, or other scheme of administration with the names and addresses of the Mahant, manager, superintendent or other persons in charge ;
- (c) the object of the endowment, trust or foundation ;
- (d) the properties, movable and immovable, attached thereto with the approximate value and income thereof ;
- (e) the annual expenditure, sanctioned or incurred, for (i) religious or charitable purposes, and (ii) the staff employed during the preceding three years ;
- (f) the customs or usages as to the religious observances and as to the appointment, election, or succession of Mahants, trustees or managers.

These particulars should be required to be supplied by every such institution, duly signed and verified by the Mahant, trustee or manager, in charge thereof, and in respect of every new endowment, foundation or trust by the founder, manager or trustees thereof with a certified copy of the instrument of foundation, if any, within a period to be fixed by the legislature, and the failure to supply these particulars without sufficient cause should be penalised. All changes in the constitution of the governing body should be similarly required to be notified to the Board within a certain period with a penalty to be charged for delay or omission.



For each district a separate register should be maintained in which these particulars should be entered; and a certified copy of these particulars in regard to any institution should be declared to be admissible in evidence of the matters recorded therein.

144. *Information to be verified by enquiry.*—For the purposes of maintaining these records and for other purposes connected with the proper management of these endowments or trusts, the Board should have power collectively or through any of its members or the members of any local or temple committee or officers employed for the purpose, to enquire into the condition, history, working and management of these institutions. An enquiry will also be necessary to ascertain if the institution is or is not of a public nature or falls within the jurisdiction of the Board. For these purposes the Board should have power to take evidence and require statements and written answers to queries verified by oath or otherwise to be furnished, books of accounts, documents or other papers to be produced by the trustees or persons acting or concerned in the management or administration of such institution or having the possession or control of property, money, income, papers or documents relating thereto or from their agents or depositories or from the beneficiaries or recipients of such charities. A power to enter for the purposes of inspection or enquiry and the like would equally be needed.

145. No such enquiry would, however, be necessary in the case of societies registered under the Societies Registration Act or Akharas, the administration of which is regulated by the Memorandum of Association registered under that Act, or Maths or Asthans attached to or forming an integral part of such Akharas or societies. Like any other public body interested in religious endowments, the Board may examine how far the objects or rules of constitution laid down in the Memorandum of Association are carried out and observed by them, but beyond a power to call for an annual statement of accounts duly audited or a copy thereof for record, no other power to order an enquiry or scrutinize the management is called for. The only persons who can take direct action against such Societies are the members thereof.

146. The Charitable Trust Act, 1853 (16 and 17 Victoria Chapter 137) makes provision for similar enquiries by commissioners acting personally or through Inspectors or Assistant Commissioners.

We recommend accordingly that the Board should be empowered, acting collectively or through any of its members or the members of a local or temple committee or officers employed for the purpose or inspecting staff to enquire into the condition, history, working and management



of all public religious and charitable endowments and institutions, which are not expressly exempted from their jurisdiction, and for this purpose to take evidence, make an inspection or local enquiry, require statements and written answers to queries verified by oath or otherwise to be furnished, or books of accounts, documents or other papers to be produced by the trustees or persons acting or concerned in the management or administration of such institutions, or having the possession, custody or control of property, income, papers or documents relating thereto or by their agents or depositories or the beneficiaries or recipients of such charities.

147. *Endowment, public or private.*—Questions will at times be raised as to whether a trust or endowment is public or private or falls within the jurisdiction of the Board. Private trusts concern only families or a body of determinate individuals for their private benefit, convenience or support. Public trusts exist for the benefit of the general public or of some considerable portion of it answering a particular description. In private trusts the beneficial interest is vested absolutely in a family or a determinate body of individuals, who are or may be definitely ascertained.

148. A public or charitable trust has for its objects the members of an uncertain, indefinite and fluctuating body, but the trust itself is of a permanent character. The determination of the question would invariably require the examination of the origin, history or practices of the trust and the documents of title appertaining thereto. When property is dedicated to charitable, religious or educational uses, for the benefit of an indeterminate body of persons; or where the public are freely allowed to worship and no permission of the head or manager of the institution is necessary or has ever been required for admission thereto, the irresistible inference from the practice would be that the institution was intended for the public benefit. But where the property is set apart for the worship of a particular family deity by the members of that family the endowment must be regarded as a private one, and the public has no right to interfere with the same.

149. *Removal or destruction of image.*—The images worshipped by the Hindus are visible symbols representing some form of the attributes of God who is believed to be One and Indivisible, and the object of worship is in reality not the visible material image but the deity believed to be incarnate or manifested in that image, and the removal or destruction of the image cannot alter the nature of the endowment<sup>(\*)</sup>.

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(\*) *Eijai Chand v. Kalipada*, I. L. R., 41 Calcutta, 57.



150. *Suit to cancel or modify decision.*—Where any question arises as to whether any religious or charitable institution is one to which these provisions apply, or is or is not excluded from the jurisdiction of the Board, the decision of the Board will not be regarded as final; but the party aggrieved by it should have the right within one year from the date of such decision, to sue in a competent court to cancel or modify that decision, and subject to the result of that suit the decision of that Board should be regarded as final. It has been suggested to us that intricate questions may arise as to the public or private nature of any temple, endowment or institution and to arm the Board with power to settle such questions finally might lead to intense hardship. We recommend accordingly that when any dispute arises as to whether any religious or charitable institution is one to which these provisions apply or is or is not excluded from the jurisdiction of the Board, such dispute shall be decided by the Board; but the party aggrieved by such decision shall have a right within one year from the date of such decision to sue in a competent court to cancel or modify such decision. Subject to the result of such suit, the decision of the Board shall be final.

151. *Power of removal or settlement of scheme.*—The Board will serve little purpose, if it is not empowered to enquire into allegations of breach of trust, neglect of duty or misfeasance by a Mahant, trustee, manager or superintendent, or to frame a scheme for the proper administration of any public trust or endowment, or to grant permission for the sale, mortgage, exchange or transfer of any particular endowed property, or to adopt any other measures necessary for the protection or preservation or recovery of the property of the endowment. It should also have power to appoint trustees, managers or superintendents where vacancies occur, to require the submission of an annual statement of accounts duly verified by the trustee, manager or superintendent or audited in the manner prescribed by the Board, and to call for such reports and returns as the Board may from time to time require.

152. A trustee of every religious or charitable endowment is bound to administer its affairs and to apply the funds and properties of such endowment in accordance with the terms of the trust and the usages of the institution; and if he does not discharge his duties in that connection his removal would obviously be needed in the interests of the trust; and unless the Board is armed with the power to suspend him or remove him, if necessary, the purpose of the trust would be liable to be defeated. Litigation in the ordinary courts is an expensive and dilatory remedy. It has owing to the trouble involved, and the reluctance of people to undertake individual responsibility, hitherto proved ineffective to stop



mismanagement except in the most flagrant cases. Unless the Board is empowered to enquire into cases of mismanagement and to fill up vacancies, the appointment of a Board of Commissioners to act merely as Record Officers and to receive annual accounts would be an expensive measure with little corresponding advantage not securable otherwise.

153. *Appointment of successor by election or selection.*—The election of a new Mahant, trustee or manager can in many cases be carried out in accordance with the usage of the trust or the directions, if any, given by the founder; and no object can be served by requiring the Board to resort in each case to the regular courts to have the vacancies filled up or the defaulting trustee or manager removed. The incessant delay and expense involved in such procedure form an insuperable objection to any such provision being acceptable. In the case of the *panchayati* Maths no difficulty arises, because the office is elective and the presiding Mahant can be elected in the manner prescribed and the report of the election sent to the Board. If it is a society or Akhara registered under the Societies Registration Act (XXI of 1860) the constitution of such society or Akhara will govern the mode in which the Mahant is to be selected. In the case of other Maths, trusts or endowments, not attached to such society or Akhara, the usage of the institution or the directions given by the founder of the trust govern the devolution of the office.

154. *Mismanagement by hereditary trustees.*—Some difficulty will arise when the office of the trustee, manager, or superintendent is hereditary. Section 53 of the Madras Hindu Religious Endowment Act (II of 1927) makes some distinction between hereditary and non-hereditary trustees, and authorizes the Temple Committee to remove or suspend any trustee for persistent default in the submission of the budgets, accounts, reports or returns or for wilful disobedience of lawful orders, issued by the Board or Committee, or the President of such Board or Committee, or for any malfeasance or misfeasance or breach of trust, or neglect of duty or any misappropriation of or improper dealing with the properties of the trust or for unsoundness of mind or other physical infirmity, rendering him unfit for the discharge of his duties. It allows an appeal from the Temple Committee to the Board and provides that a hereditary trustee may in lieu of appealing to the Board apply to the court to modify or cancel the order of the Committee.

155. It does not seem desirable that the powers of removal should be vested in the Temple or Local Committees. They can report to the Board, which should be responsible for inquiring into the allegations made and taking suitable action thereon. The order of the Board



should be subject to an appeal to the High Court within such time as may be allowed by the legislature.

156. *Succession by hereditary right.*—In cases of succession, a claim to a hereditary right of management can only succeed if the founder has laid down such a rule of succession or where such a right is recognized by the usage of Math or institution concerned. But even a hereditary trustee can be removed if he discards the interests of the trust or otherwise deals with the trust property or income in a manner inconsistent with the purposes of the trust. As pointed out already, hereditary succession affords no guarantee of fitness for the exercise of the office and is largely responsible for the numerous cases of mis-management and waste of these endowments; and in a recent case their Lordships of the Privy Council have pointed out that the courts have always a very large discretion to vary any rule of management laid down by the founder, which they may find either not practicable or not in the best interests of the institution (\*). The trustee exists for the trust and not the trust for the trustee; and the Board should always have the power to remove the trustee in the interests of the trust or to secure better management. The grounds of removal would vary in different cases and would include, for instance, a failure to keep accounts, mis-application of funds, improper alienation of endowed property, physical infirmity, unsoundness of mind, wilful default and continued dissensions among the trustees. In these cases too, an appeal should be allowed to the High Court from the order of removal.

157. *Orthodox opinion.*—In his evidence before this Committee Pandit Madan Mohan Malviya said that in his opinion the Central Board must have the power to remove and dismiss Mahants found to be guilty of mis-management or mis-conduct and most of the other orthodox witnesses examined have similarly stated that the power to remove and appoint Mahants was necessary to obviate the trouble and expense of litigation and the consequent delay in stopping the evil.

158. The conferment of these powers would facilitate the administration of the trust. Similar powers are exercised by the Charity Commissioners in England and an appeal is allowed from their orders to the High Court of Chancery. We recommend accordingly that the Board should have, on the application of any two persons or a Registered body interested in the trust, or on the report of any Local or Temple Committee, the power,—

- (a) to enquire into any complaint of a breach of trust, neglect of duty, misfeasance, malfeasance or physical incapacity

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(\*) Mohd. Ismail versus Mohd. Mula (43 I. A., 127). See also Dharamdas versus Sadho (40 I. C. 177, page 180).



rendering the person in charge of an endowment or trust unfit for the discharge of his duty;

- (b) to direct an account to be taken from him;
- (c) to remove any Mahant, trustee, manager or superintendent so found guilty;
- (d) to appoint a new person to fill up a vacancy;
- (e) to settle a scheme for the proper administration of the trust or endowment, or to alter or cancel the same, when necessary; and
- (f) to direct the vesting of the property in the trustee or trustees so appointed.

PROVIDED that an appeal shall be allowed from the order of the Board to the High Court within such time as may be fixed by the legislature, but subject to the result of such appeal, the order shall be final.

159. *Removal or suspension for contempt.*—At the same time, a Mahant, trustee, manager or superintendent in charge of an endowment or trust should be liable to suspension or removal, for persistent failure to submit the annual accounts, reports or returns required by the Board, or wilful disobedience of lawful orders or directions issued by the Board, or a Local or Temple Committee with respect to any matter concerning the protection, preservation, restoration or recovery of the endowed property or the funds, income or proceeds thereof. An express authority should be given to the Board to call for such accounts, reports, or returns and to issue such directions or orders as may from time to time be considered necessary. We recommend accordingly that the Board and the Local or Temple Committee should be empowered—

- (a) to require the annual submission of accounts, reports, or returns as the Board may from time to time prescribe or require; and
- (b) to issue any directions or orders with respect to the protection, preservation, restoration or recovery of the endowed property or the income, funds, or proceeds thereof as may from time to time be considered necessary.

A Mahant, trustee, manager, or superintendent in charge of an endowment or trust guilty of persistent default in the submission of such accounts, reports or returns or wilful disobedience of such directions or orders shall be liable to suspension or removal by the order of the Board; but it shall be open to the Board at any time to revise, alter or cancel that order, if such person penitently submits to the authority of the Board and carries out or undertakes to carry out its directions or orders.



160. *Removal or settlement of scheme by Court.*—It would be expedient to empower the Board to move the Local Government in cases of difficulty to appoint a Special Tribunal of not more than three Judges for the decision of any particular enquiry or dispute. The Government may not, however, be ready to constitute such a tribunal, or the matter may not be considered of such importance as to require such special treatment. The Board should therefore also have the power to give permission to any two persons interested in the institution or endowment to seek the relief desired, or to sue for a suitable remedy itself in the proper court. Section 5 of the Charitable Trusts Act, 1860 (23 and 24 Vic. Chapter 136) permits the Charity Commissioners to refuse to exercise the jurisdiction vested in them, in any case which by reason of its contentious character, or any special questions of law or fact which it may involve or for other reasons, they may consider more fit to be adjudicated by any of the judicial courts. Such a power to the Board should be reserved here too.

We recommend accordingly that where it appears to the Board that a Special Judicial Tribunal will be better qualified to deal with any particular enquiry or dispute more effectively or with greater promptitude, the Board should have the power to move the Local Government to appoint a Special Judicial Tribunal of not more than three Judges for the decision of such enquiry or dispute. An appeal shall lie from the decision of such Tribunal to the High Court, but subject to the result of the appeal, the decision of the Tribunal shall be final.

We also recommend that notwithstanding anything herein contained or provided by sections 92 and 93 and Order 1, Rule 8 of the Code of Civil Procedure, the Board shall, where it appears that the matter is more fit to be adjudicated by any of the existing courts have the power to institute a suit or to grant permission in writing to any two or more persons or a registered body having interest in the endowment or trust, to institute a suit in the principal civil court of original jurisdiction or in any other court empowered in this behalf by the Local Government within the local limits of whose jurisdiction the whole or any part of the subject matter of the trust is situate, to obtain a decree,—

- (a) removing any trustee, superintendent or manager,
- (b) appointing a new trustee, superintendent or manager,
- (c) vesting any property in a trustee,
- (d) directing accounts and enquiries,



- (e) declaring what portion of the trust or endowed property or of the income thereof shall be allocated to any particular object of the endowment or trust,
- (f) settling a scheme, or
- (g) granting such further or other relief as the nature of the case may require.

161. *Sampradayik differences.*—It would be expedient to associate in any enquiry to be made by the Board relating to the existence, nature or extent of any endowment or trust or any alleged breach of trust, misconduct, malfeasance, misfeasance, neglect of duty or physical incapacity of any Mahant, trustee, superintendent or manager of any institution, some persons belonging to the Sampradaya or sect to which the institution, to which the enquiry relates belongs. It has in fact been pressed on our attention that the control of the Sampradayas over the institutions appertaining respectively to those Sampradayas should be strengthened by legislation and the possibility of any interference from outside should be excluded. But the Sampradayas are divided into sects or sub-sects and there are no effective Sampradayik organizations duly constituted or corporately recognized capable of exercising general jurisdiction of an ecclesiastical character over the institutions of the different sects or sub-divisions belonging to each Sampradaya.

162. The Sanyasins, for instance, are divided into ten classes namely, Giri, Puri, Bharati, Saraswati, Tirtha, Ashram, Aranya, Sagar, Parwat and Ban, and they are again grouped into four or more Sampradayas and fifty-two sub-divisions. These sub-divisions have little in common between them to be able to act together. The Nirwanis, Niranjanis, Junas, Jogis, Nagas, Gosains, Kanphatas and the like, are really off-shoots or variations of the same common type, but any co-operation between them *inter se*, or with the Sanyasis of the regular type is not of the question. The Udasis are sub-divided in turn into *Bara Panchaiti* and *Naya Panchaiti*, each of which has a separate organization of its own and would resent any control from outside its fold.

163. The Vaishnavas are divided into four main sects, following respectively the teachings of Sri Ramanuja Acharya, Sri Vallabha Acharya, Sri Nimbark Acharya and Sri Madhvacharya. There are again further sub-divisions which follow the teachings of Ramanand, Kabir, Dadu, Gorakhnath, Malukdas, Raidas, and other saints. The persons belonging to one group or sub-group have no faith in deity of the other; and each group or sub-group is for all intents and purposes a separate body, incapable of co-operating with the other in any common



religious object. The All-India Vaishnava Mahamandal met at the last Kumbh fair at Allahabad, and in a representation sent by them they have pointed out how each Sampradaya or sect is hostile to the other and considers the other so far as religious views are considered as following the wrong path.

164. Then there are Shaiva Sampradayas and Shakta Sampradayas which have different sub-divisions of their own. There are sects called Ganpatya, Shaur, Swami Narain, Radha Swami, and others which form separate groups of their own, and there are others which worship Mahabir, Sitala, Bhairon, Durga, Kali and the like. The Faqirs or non-descript Sadhus who owe allegiance to no definite sect or sub-sect form a legion.

165. The Jain Sampradaya is divided into two main sub-divisions, Digambar and Shwetambar; but each has got other sub-divisions. Even the Sikhs and the Arya Samajists have sub-divisions of their own. Among the lower classes there are sects known as Balmikis, Lalbegis, Raidasis, Balashahis, Lalgurus, Panchpiriyas, Satnamis and the like, too numerous to mention; and it would be too difficult to organize these sects and sub-sects and place the religious institutions belonging to them under a common group for purposes of control and supervision.

166. The juridical owner of the temple, Math or other institution belonging to each sect or sub-sect is the presiding deity of that sect or sub-division, and the Mahant, *sadhu* or other person in charge of it is, as the All-India Vaishnava Mahamandal points out, only a manager whose duty it is to look after the affairs of these endowments, to worship deity of the endowment and to carry out all other religious duties according to the custom and practices of that sub-division. Within each Sampradaya there are sub-sects and sub-divisions which have integral differences of their own and different religious view-points and modes of worship.

167. *Common representation not acceptable to sub-sects.*—Any common representation given, for instance, to the Sanyasis as a generic body will not satisfy either the Dasnamis or the Niranjani, Nirwanis, Junas, Jogis, Kanphatas and the like; and a common representation given to the general body of Vaishnavas will equally fail to satisfy Bairagis, Acharis, Dadupanthis, Radhaswamis, Swami Narainis and the like. It will be equally difficult to provide satisfactorily for the due representation of the various sub-sects represented by the followers of Shiva, Durga, Mahabir, Kali, Bhairon and other Smart deities, unless the Central Board is made too big so as to be almost unmanageable. Moreover it is necessary to



provide a simple and yet effective scheme for securing the proper supervision of the working of religious and charitable endowments without making the control too expensive and unworkable for the purposes intended.

168. *Co-option of Sampradayik representatives for enquiries.*—It would suffice for all practical purposes, if a panel of suitable men belonging to each sect or sub-sect is obtained at the beginning of each year and two or three persons of the sects or sub-sects concerned are co-opted to work with the Commissioners, when needed, in every enquiry of the above nature. Their views as the representatives of the sect or sub-sect to which the institution under enquiry belongs, will be of greater value in adjudicating on the questions at issue than the views of any common representative, appointed to represent the general body.

169. There is, moreover, considerable antipathy and ill-feeling at times between persons belonging to the different sub-sects; and a *Ramanandi* may resent to be represented in matters connected with the administration of a religious endowment of his sub-sect by an *Achari* or a *Dadupanthi* who may be elected or selected to represent the general body; and endless difficulties may arise in practice in securing the co-operation, good-will and confidence of the different sects and sub-sects, so essential for the successful working of the scheme. We would prefer a simpler and more effective method of representation and recommend that the Board should co-opt for the purposes of any enquiry of the nature above referred to, concerning any endowment or trust, not more than three persons of the Sampradaya or religious sect or sub-sect to which that institution belongs and such members when co-opted, shall act as co-judges and be entitled on the conclusion of the enquiry to record their opinions or report on any point connected with the enquiry, and such opinion or report shall form a part of the record.

170. *Local or Temple Committees.*—The constitution of local or temple committees would be necessary in many places for supervising the management of religious or charitable institutions, or carrying on the administration of religious or charitable institution in any local area, where there are no trust committees already in existence to look after them. The committees, appointed under section 7 of Act XX of 1863, in a few places, remained dormant and did little work. It may be difficult in some places to get a sufficient number of men of the right stamp, taking an interest in religious matters but free from sectarian bias to serve on these committees. But the Central authority can be trusted to stimulate the committees to action, when they neglect their duties, and set them right when they are divided into factions. The present



unsatisfactory condition of religious and charitable endowments is in a great measure due to the want of an active local interest in their welfare, and the absence of any central authority to supervise their working.

171. With a central authority of the kind now proposed, better results may be expected. The necessity for constituting temple committees is recognized by section 20 of the Madras Religious Endowments Act (II of 1927) and similar temple or local committees would be needed here. We recommend accordingly that the Local Government may on the recommendation of the Board, by notification—

- (a) direct the constitution of a committee for any local area, or any class or classes of institutions in any local area, other than *Akharas* and societies registered under the Societies Registration Act (XXI of 1860), or the *Maths* and *Asthans* appertaining or attached to them,
- (b) vary the strength or the jurisdiction of any such committee,
- (c) fix the period for which it is to be constituted, and
- (d) suspend or abolish the same after enquiry for any sufficient cause.

172. *Their constitution, strength and functions.*—Such committees should consist of not less than three and not more than seven members professing the Hindu religion and belonging in the case of Temple Committees to the same *Sampradaya* or religious sect, to which the temple or institution concerned belongs. They shall work under the control of the Board, which shall assign the functions to be exercised by them.

The Madras Board of Commissioners found that the existence of separate committees for the Vaishnava and Shaiva temples only tended to accentuate the sectarian disputes, and they did away consequently with such separate bodies. In some places, the Temple Committees may have only to take accounts or supervise the management carried on by the persons already in lawful charge, but in other places, where no such persons are in charge, they may have to undertake the management themselves. It would be more satisfactory and consistent with popular sentiment that an institution belonging to any *Sampradaya*, should be in the charge of persons belonging to that *Sampradaya* and outside control in the internal management should be excluded. If local *Sampradayik* organizations are in existence and willing to look after the institutions, it would be open to the Board to utilize them if otherwise suitable. The strength of each committee should not in any case be too large to make it unworkable without difficulty.



We recommend accordingly that the Local or Temple Committee shall consist of not more than seven and not less than three persons professing the Hindu religion, and that in the case of Temple Committee, they shall be persons belonging to the same *Sampradaya* or religious sect to which the institution concerned belongs. They shall work under the control of the Board, which shall assign the functions to be exercised by them.

173. *Appointment or election.*—In the beginning they can only be appointed by the Local Government on the recommendation of the Board. But after the registration of public, religious and charitable institutions is completed, it should be possible to provide by rules for the election of the members of the committee, the qualifications of the voters, the preparation of electoral rolls and the regulation of elections. The rules will have to be framed by the Board; and on being sanctioned by the Local Government shall come into force from such date as may be fixed by the notification.

174. *President and Vice-President.*—It would be necessary at the same time to authorize the local or temple committees to elect a president and vice-president, and subject to the control of the Board, the entire executive power of the committee should be vested in the President and in his absence in the Vice-President.

175. *Officers and servants.*—The Board should determine from time to time the number, designation, grade and scales of salaries or other remuneration of the officers and servants to be appointed to the Board and to each committee, and fix the travelling or other allowances payable to them. Subject to the control of the Board or the committee concerned the President of the Board, and in the case of committees the President of the Local or Temple Committee shall have the power to appoint such officers and servants for the Board and committee respectively, and to fine, suspend or remove them for unfitness, neglect of duty, misconduct or other sufficient cause.

176. *Alienation without sanction void.*—One of the essential conditions attaching to all religious and charitable endowments and trusts is that no trustee, superintendent, manager or Mahant in charge of any public, religious or charitable institution has any power to deal with the endowed or trust property except for necessary purposes connected with the trust. But whether an alienation has been made for necessary purposes connected with the trust or for personal purposes is always a question of some difficulty. It often leads to much litigation. This can be prevented if, as in the case of the property of minors, the previous sanction of the Board is required to be taken before the transfer



is made. The Board is the proper authority to determine whether the interest of the endowment or the trust will be served by the transfer of any portion of its property or fund by a sale, mortgage, exchange or otherwise. Section 8 of the Bombay Act, II of 1863, provided that lands held by religious or charitable institutions wholly or partially exempt from the payment of land revenue, shall not be transferable from such institutions by sale, gift, devise, or otherwise. But Act XX of 1863 contains no such provision. Section 76 of the Madras Religious Endowment Act (II of 1927) forbids even a lease of any immovable property belonging to any temple or *math* for a term exceeding five years without the sanction of the Board, or the Temple Committee concerned, and it further provides that where the Board or the Temple Committee concerned grants or refuses to grant sanction for an exchange, sale or mortgage or a lease for a term exceeding five years, the trustee of the *math* or temple or any person having interest in the trust may within one year of the date of the order of the Board or Committee apply to the Board for modifying or cancelling such order. We do not consider that local or temple committees should be allowed to sanction an alienation of immovable property or that the orders passed by the Board should be allowed to be contested in the civil court. The local or temple committee may in suitable cases make a recommendation to the Board, and the order of the Board granting or refusing the sanction in such cases should be final.

177. *Practice in England.*—In England, section 29 of the Charitable Trusts Act, 1855 (18 and 19 Vic., Chapter 124) gives to the Charity Commissioners control over the dealings with the corpus of charities falling within their jurisdiction by forbidding the trustees from making any sale or mortgage or long lease thereof without the approval of the Board or the sanction of a competent court or according to a scheme legally established, and this rule applies even where the power to sell, mortgage or lease beyond the aforesaid limits is given in the original deed of trust. The Commissioners have also been given authority to purchase land where necessary for the benefit of a Charity. They have also powers to give directions for the investment of the surplus money or the money or property received in consideration or by way of an exchange.

178. *Transfer of turns of worship.*—Similar powers should be given to the Board here. In many instances, turns of worship or a right to the priestly office have been found to have been sold or mortgaged to persons outside the priestly body or unconnected with the temple, and instances have been brought to our notice where such sales have



been effected in favour of persons belonging to other religious persuasions. Such a transfer would be inconsistent with the purposes for which the priestly office was created and likely to disturb the religious susceptibilities of the votaries visiting the temple or religious institutions concerned for worship, and except as between co-sharers in that office belonging to the same *Sampradaya* or religious persuasion as the temple or religious institution concerned, no such transfer of a turn of worship, or of a right to a priestly office should in any circumstances be recognised or regarded as valid or operative.

179. A clear provision should therefore be made that no trustee or superintendent, manager, Mahant or other person in charge of any public, religious or charitable institution shall have any power to transfer or alienate the property, funds or income appertaining to it, by sale, mortgage, exchange or otherwise, or to grant a lease thereof for a term exceeding five years, except with the previous sanction of the Board; and any such transfer, exchange or sale or mortgage or a lease for a period in excess of five years made in contravention thereof shall be regarded as invalid and inoperative. Similarly no transfer of any turn of worship or a right to priestly office in connection with any temple or religious institution, not made in favour of persons who are co-sharers therein, and of the same religious persuasion or *Sampradaya* as the temple or religious institution concerned, shall be regarded as valid or operative.

180. *Schemes settled by court.*—The Board would ordinarily be able to modify or cancel any scheme for the administration of a trust framed by it; but it cannot have any power to modify or cancel a scheme settled by a competent court. When a scheme has been settled by a competent court, the Board should have the power to move the proper authority to cancel or modify that scheme from time to time. We recommend that schemes settled under section 92 of the Code of Civil Procedure shall be deemed to be schemes settled by the Board, but the Board shall have the power to move the proper authority to cancel or modify the same from time to time.

181. *Safeguards proposed.*—It has been represented to us that adequate safeguards should be provided to prevent the diversion of the income, property or surplus funds of any public, religious or charitable institution to any purpose unconnected with that institution or inconsistent with the object for which the institution was established, and to exclude any interference with the religious worship, rites, ceremonies or privileges recognised or established in any institution according to the direction of the author of the trust or by usage.



182. *Diversion of surplus not intended.*—It is apprehended by those seeking to boycott the committee that the object of providing supervision for the religious institutions and obtaining their annual accounts, is to obtain a hold on the surplus funds, which some of these institutions have been able to gather by their good management. Nothing is, however, farther from the intention of those responsible for the constitution of this committee or connected with it than to allow the diversion of the funds of any religious or charitable institution from the objects for which the institution was founded. The committee is anxious to devise measures to ensure the proper application of the funds to the purposes for which the endowment was made and to prevent their diversion, misapplication or misappropriation by those in charge of the management, leaving the managing body reasonable discretion to apply the surplus, if any, to the acquisition of property for the benefit of the trust or to the improvement of the institution, and the promotion of benevolent purposes, educational, charitable or religious, connected with it. It is proposed by some witnesses, including men like Pandit Madan Mohan Malviya and Mahamahopadhyaya Dr. Ganga Nath Jha, that the surplus should be allowed to be utilized for educational purposes, particularly education in the Sanskrit language, for which the spacious accommodation available in some of the temple buildings is amply fitted. The *bhog* offering, now, largely distributed to idlers, can also be thus utilized. The study of the Sanskrit language unquestionably forms the basis on which religious education must rest, and as the Agni Purana says, any arrangements made for the advancement of learning or the study of the Vedas and Smritis in the temples will be productive of the highest religious merit. The temples and *maths* used to attract endowments and gifts when they were centres of religious learning, devotion and piety; and they would attract such gifts and charity again when they become centres for the dissemination of religious education and thought. We hope that every institution will try to follow this ideal and while free to carry out its internal management in accordance with the directions laid down and within the limits prescribed by the instrument of foundation, deal with the surplus, if any, in the manner best calculated to advance the interests of the institution consistently with the wishes of the founder.

183. *No interference with religious rites.*—No interference with the religious worship, ceremonies, or observances carried on in any institution should be permissible and any established usage, rights, honours and practices to which any person may by custom or otherwise be entitled in any institution should continue to be observed and remain in force with-



out any impediment. Section 79 of the Madras Religious Endowments Act (II of 1927) gives similar protection to the long established customs and usages of every temple. The safeguards, we have recommended, cover a wider area; and we consider that in the interest of the public and the institutions alike, neither the Board nor any temple or local committee should have any power—

- (a) to divert the income, property or surplus funds of any Hindu public religious or charitable institution to any purposes unconnected with that institution or inconsistent with the intentions of the founder, or
- (b) to interfere with the religious worship, ceremonies, practices or instruction conducted thereat, or
- (c) to interfere with or disturb any established usage, rights, honours, emoluments and perquisites, to which any person may by custom or otherwise be entitled in any institution.

184. *Cypres application*.—It is at the same time necessary to empower the Board to deal with the *cypres* application of trust property, when the particular purpose to which the endowment is to be applied, is not clearly expressed or the object specified fails or the mode in which it is to be carried cannot be executed. A similar provision is made by section 67 of the Madras Religious Endowments Act (II of 1927). Where a clear intention is expressed, it is a well recognised principle of law that it will not be permitted to fail, if the mode specified cannot be executed; but the law will substitute another mode *cypres*, that is as near as possible to the mode specified by the donor.

185. In England no trustees of charity are permitted to apply trust funds *cypres* on their own authority without the direction of the court or of the charity commissioners, and it is proposed to give the charity commissioners similar authority here. It sometimes happens that a particular purpose fails initially or subsequently, or the machinery for effectuating the charitable intention fails or a surplus remains after satisfying the objects specified. Where there is a gift to a charity, which has never existed or cannot be identified, even a small indication of the testator's intention has been treated in England as sufficient to show that the purpose represented by a particular class of charity was intended in a certain case and not the particular charity named. In the case of religious charities the doctrine will have to be applied with some care, and gifts intended for a particular sect or sub-sect or for a particular locality should not be diverted to another sect, sub-sect or locality.



Our recommendation is that where a grant appears to have been made for a charitable or religious purpose without specifying the mode in which that purpose is to be carried out or the definite object to which the endowment is to be applied, or where a clear charitable intention is expressed but the object specified fails, or the mode, in which it is to be carried out cannot be executed, the Board shall have the power to give effect to the charitable intention of the donor, so far as it can be ascertainable by applying or substituting another mode *cypres*, that is as near as possible to give effect to that intention.

186. *Expenditure on improvements or investments.*—It must not, however, be assumed that the trustees shall have no power to apply any surplus funds for the necessary improvement of the trust property, or to adopt, measures to promote the health or convenience of the worshippers or pilgrims visiting the institution. The improvement of sanitation, the construction of rest houses, the maintenance of approach roads, and a provision for reading rooms, libraries and dispensaries, or for light, water, or other conveniences are always within the scope of their authority, particularly at places like Muttra, Brindaban, Ajodhya and Benares, where periodical festivals are celebrated at certain times of the year on a large scale, attracting pilgrims or visitors from all parts of the country. Section 66 of the Madras Religious Endowments Act (II of 1927) gives such authority. A provision should therefore be made that the trustees of every *Math*, *Asthan*, temple or religious or charitable institution may, out of the funds of the endowments in their charge, after satisfying adequately the purposes of the endowment, incur expenditure on arrangements for securing the health, safety or convenience of the pilgrims or worshippers visiting the institution and making such improvements as the conditions or circumstances of such institution may require; and they shall also be entitled to invest such surplus funds in the purchase of any property or land for the benefit of the institution or in such securities as the Board may approve.

187. *Resistance to possession.*—The trustee, manager, or superintendent appointed by the Board or by a Special Tribunal may find some difficulty in obtaining possession of the funds or property, appertaining to a religious institution placed in his charge, and he may be resisted by persons having no title to the property, or putting forward a title of their own. It is desirable that the District Court should have the requisite authority to give possession to the person so appointed. We recommend accordingly that where the Board or Tribunal has appointed a person or a body of persons as trustee of a public religious or charitable institution, and such person is resisted in or prevented from obtaining possession



of the endowment or institution and of the properties, funds or moneys connected therewith or of any title deeds or other documents relating thereto, the District Court shall, on an application by the person so appointed and on the production of a certified copy of the order of the Board or the Special Tribunal appointing him, order the delivery to such person of possession of such property, fund moneys, or documents, as may be specified therein.

188. *Ad Interim Administration*.—Some provision will also be required to be made for the *ad interim* administration of the property, other than an *Akhara* or society registered under the Societies Registration Act and the *Maths* or *Asthan* appertaining thereto, where there is a dispute regarding the right of succession to the office of *Mahant* or trustee of such an institution, or where the person entitled to the same is under a legal disability to discharge his duties. Following section 58 of the Madras Religious Endowments Act (II of 1927), we recommend that where a vacancy occurs in the office of *mahant*, trustee or manager of a religious or charitable endowment or institution other than an *Akhara* or society registered under the Societies Registration Act, or a *Math* or an *Asthan* attached thereto, or where there is any dispute regarding the right of succession to such office, or when such vacancy cannot be filled up immediately or where the person entitled to succeed is a minor and has no legally constituted guardian fit and willing to act as such, or where there is a dispute as regards the person entitled to act as such guardian, or when a *mahant* or trustee is by reason of unsoundness of mind or other physical infirmity unable to discharge his duties, the President of the Board, or where there is a Local or Temple Committee, the President of such committee may appoint a fit person to discharge the functions of the *mahant*, trustee or manager until another is duly appointed to the office, or the disability of the *mahant* or trustee or manager ceases to exist. Any such action taken by a local or temple committee shall be reported forthwith to the Board for confirmation and the orders of the Board thereon shall be final.

## CHAPTER VI.

### SUBSIDIARY PROPOSALS.

189. The creation of a Board of Commissioners with the powers and functions proposed will not, however, suffice to secure the full protection of the endowed property. There are certain subsidiary matters, a consideration of which is equally important to save the property of religious and charitable trusts from wastage and spoliation.



190. *Anomalous working of Act XXI of 1860.*—We have already referred to the facility with which any seven persons in charge of a public endowment or trust property held for public purposes can register themselves into a Society and thereby save themselves from a statutory obligation to maintain regular accounts or from any personal responsibility for the loss incurred in the course of management. The Societies Registration Act (XXI of 1860) requires the persons applying for registration, to submit a memorandum of Association, showing the names, addresses and occupations of the persons forming the governing body, to whom by the rules of the society the management of its affairs is to be entrusted. They are not required to specify the capital fund or property, if any at their disposal, or the resources from which the objects of the society are to be carried out. There is no statutory obligation on the members of the society or the persons forming the governing body, to maintain regular accounts, or to get them audited, or to send the annual balance sheet to the Registrar of the Joint Stock Companies or to any other public officer or to publish the same every year. They are required to send annually a list of the names, addresses and occupations of the members of the governing body, entrusted with the management of the affairs of the society; but no penalty is to be charged, if the provision is disregarded. The society is empowered under certain conditions to alter, extend or abridge the purposes for which it was founded or registered, so long as the amended purposes fall within the purview of the Act; and there is nothing to prevent the funds or property, collected at one time for a specific charitable purpose being applied at some other time, after the society is registered, to other purposes within the purview of the Act, if three-fifths of the members existing at the time of the proposed alteration agree to the same.

191. *Dissolution of such society.*—The Act also permits any number, not less than three-fifths of the members of the society, to determine that it shall be dissolved and take steps for the disposal and settlement of the property of the society and its claims and liabilities according to the rules of such society, if any, or in such manner as the governing body may find expedient. It may, perhaps, be expedient to allow a society to be dissolved, if by reason of its financial position or other cause it cannot serve any useful purpose. An effective safeguard is provided against collusive or dishonest attempts at dissolution by disentitling the members to any share of the profits or in the surplus funds, which cannot be distributed among the members of the society but can only be given to some other society to be determined



by the vote of not less than three-fifths of the members. The charitable object of those, who may have originally contributed to the funds or given any property, is all the same thus liable to be frustrated. The Act provides for little or no control, and is vague and indefinite in many particulars.

192. *Remedy for the defects.*—We are not, however, concerned with its defects except in so far that the societies registered under it for charitable purposes and falling within the purview of the Board should be required to submit an annual report of its work with an audited statement of its account to the Board of Commissioners, and to report to the Board every change in its constitution, objects or the members of its governing body. At the same time, the members of the society should not be permitted to elude responsibility for their acts, and for that purpose every such society should be required to maintain a register of the movable and immovable property belonging to such society and a register of members, to keep a regular account of its income and expenditure, and to maintain a record of its proceedings. Section 5 of the Charitable Trusts Incorporation Act, 1872 (35 and 36 Victoria, Chap. 24) lays down that after a certificate of incorporation has been granted all trustees of the charity, notwithstanding their incorporation, shall be chargeable for such property as shall come into their hands, and shall be answerable and accountable for their own acts, receipts, neglects and defaults, and for the due administration of the charity and its property in the same manner and to the same extent, as if no such incorporation had been effected. There is no reason why a similar provision should not be enacted here. We recommend accordingly that the Societies Registration Act be amended so as

(1) to require every society registered under it for charitable purposes falling within the jurisdiction of the Board—

- (a) to keep a regular account of its income and expenditure,
- (b) to maintain a record of its proceedings,
- (c) to maintain a register of the members of such society,
- (d) to maintain a register of movable and immovable property belonging to the society,
- (e) to submit an annual report of its work with an audited statement of its accounts to the Board of Commissioners,
- (f) to report to the Board every change in its constitution, objects or the members of its governing body: and



(2) to declare that the trustees or members of the governing body shall individually and collectively be chargeable for such property as shall come into their hands and answerable and accountable for their respective acts, receipts, neglects or defaults and for the due administration of the charity and its property in the same manner and to the same extent, as if no such incorporation had been effected.

193. *Article 134 of the Indian Limitation Act.*—Article 134 of the Indian Limitation Act (IX of 1908) has been a source of much loss and injury, arising from the transfer of endowed properties by *Mahants* or trustees without any necessity. Section 10 of the Indian Limitation Act declares that no suit against a person, in whom property has become vested in trust for any specific purpose, or against his legal representatives or assigns, not being assigns for valuable consideration, for the purpose of following in his or their hands such property or the proceeds thereof, or for an account of such property or proceeds shall be barred by any length of time. But a suit against a transferee for valuable consideration is governed by article 134 of the Indian Limitation Act and protects such a transferee from being ousted if he remains in possession for more than 12 years after the transfer becomes known to the plaintiff. It makes no distinction in terms between a transferee for good faith or with a notice of the trust, through the decisions of some of the High Courts, which are by no means unanimous, have excluded transferees with notice from such protection.

194. In the case of property endowed for charitable purposes there is a special reason why no such protection should be extended. The property endowed for religious purposes is in the eyes of the Hindu Law vested in God; and the trustee, *mahant* or manager only holds the property on behalf of the deity and has no authority to transfer or alienate it except for necessity. The beneficiaries of such institutions are often a large and fluctuating body of persons, belonging mainly to a particular sect or *Sampradaya* and scattered far and wide. They may have no notice of the transfer or breach of trust for many years, for it is not the temple but some outlying land or property, not within the view of the public, which is generally disposed of by a secret transaction. The culpable neglect or knowledge of some cannot at any rate operate to alter the nature of the trust. The trustee takes advantage of his possession by transferring property for personal purposes, without any right, and finds very often a person willing to take it from him at any inadequate price in consideration of the risk. An honest transferee would naturally enquire about and examine the title deeds



to the property before taking the transfer, but the trustee and the transferee very often combine to conceal the real nature of the transaction. They pretend that the property sought to be conveyed was the personal property of the transferer; and the person seeking to set aside the alienation, whether he is a succeeding *mahant* or a beneficiary, has always considerable difficulty in establishing that the transferee had a notice of the trust.

195. The Madras and the Calcutta High Courts have ruled that for the purpose of article 134, a transferee without notice and a transferee with notice are on the same footing<sup>(1)</sup>. Section 64 of the Indian Trusts Act (II of 1882) protects only transferees in good faith for consideration, who without having notice of the trust may have taken a conveyance from a trustee; and a beneficiary is allowed to follow the trust property into the hands of a third person, where he has purchased it from the trustee with a notice of the trust. Where the property is endowed for religious or charitable purposes, public interest requires that the property should be protected in the same manner and to the same extent as the property of the State and the limitation applicable should be the same.

A transferee with notice should not be allowed to take advantage of his own wrong and deserves no protection. If he has notice, he becomes a constructive trustee himself. If he is a transferee without notice, assuming that such a position is possible, when he does not call for or examine the title deeds, if any, the loss to the public is of greater moment than the loss to one individual, who has got his remedy against his vendor. Public endowments are generally matters of public notoriety, and the State is in the position of *parens patriae* or constitutional trustee. If any limitation is to be provided, it should be sixty years as under Act X of 1859, from the date of the transfer or when the possession of the trust property is transferred in pursuance of the conveyance.

We recommend accordingly that article 134, Schedule II of the Indian Limitation Act, be amended so as not to affect public religious or charitable endowments or trusts or the property appertaining thereto, and in any case, so as to exclude transferees acquiring property with a notice of the breach of trust, from its purview; and to extend the period of limitation in respect of sales or transfers by trustees in breach of the trust from 12 to 60 years from the date of the transfer.

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(<sup>1</sup>) *Narain Das v. Haji Abdul Rahim*, I. L. R., 47 Calcutta 866.  
*Bala Swamy v. Venkata Swamy*, I. L. R., 40 Madras, 745.  
*Contra Drigpal Singh v. Kallu*, I. L. R., 37 All., 660.



196. *Section 22 of Act XX of 1863.*—When the Court of Directors directed the Government in India to withdraw its connection with the management of religious endowments, and the Religious Endowments Act (XX of 1863) was subsequently enacted to provide for the formation of Temple Committees to take the place of management by the Board of Revenue through its local officers, it was provided by section 22 of that Act, that except as provided in that Act, it shall not be lawful for any Government in India or for any officer of any Government in his official character to undertake or resume the superintendence of any land or other property, granted for the support of or otherwise belonging to any mosque, temple or other religious establishment, or to take any part in the management or appropriation of any endowment, made for the maintenance of any such mosque, temple or other establishment or to nominate or appoint any trustee, manager or superintendent thereof, or to be in any way connected therewith.

197. It is not now proposed to go back to the old system, under which the Government held the direct management or superintendence of the property of religious institutions. There is a general consensus of opinion that the Government should have no hand or control in the management of these institutions, and we are agreed that except for certain essential purposes, for which an authority higher than the Board of Commissioners is needed, such as the appointment, suspension or removal of Commissioners, and the members of the local or temple committees, and the framing of rules to regulate the election of members to such committees, all interference by the Government of any kind with the internal management of religious or charitable institutions, or with the supervision or control thereof should be excluded. It may be necessary all the same, to utilize at times the services of officers of the Government, possessing the required administrative or judicial experience, to act as Commissioners or as members of a local or temple committee in their personal capacity, or for any other administrative or ministerial work, connected with the Board or Committee, or for the inspection or audit of accounts; and the existing legal embargo on the employment of such offices, imposed by section 22 of Act XX of 1863, should be removed. With the introduction of a responsible element in the Executive Government of the country, and the authority given to responsible Ministers over the subject of public, religious and charitable endowments, the necessity for interdicting the use of the services of Government officers, when needed, no longer exists.



198. *Object of the interdiction.*—The object of the interdiction originally was to exclude European officers from mixing themselves up with the management or administration of religious places; and this is manifest from one of the early despatches (Despatch No. 17 of 1841) in which the Court of Directors, referring to the same matter, said :—

“We are desirous that the regulations abovementioned may be modified, and the rules which require any of our European officers to interfere in the management of the funds and the affairs of any mosque, pagoda, or temple may be rescinded.” But when Act XX of 1863 was enacted, the above limitation was lost sight of, and the connection of all Government officers with the management of the funds and affairs of religious institutions was prohibited.

199. As Mr. Elliott, a member of the Indian Law Commission, Madras, pointed out in his Memorandum of the 1st March, 1845, “To interdict natives, who by their ability and integrity have risen to eminence in the public services, from acting for the benefit of the community, of which they are members in any office to which the public voice may recommend them, the functions of which are not incompatible with their duties to Government, appears to be unreasonable and inexpedient. It is obvious that such persons are likely to be regarded by the public as more responsible by reason of their holding high and valuable posts under Government, which will be justly deemed a security for the faithful and upright discharge of the trust, proposed to be committed to them.”

200. If the provision referred to is allowed to stand the Board of Commissioners or a local or temple committee would not be able to obtain a loan of the services of a Government officer as Executive Officer, Secretary, Auditor or in any other capacity. A Judicial Tribunal can also be appointed only by the Local Government. There should be nothing, therefore, to debar the Local Government from lending the services of any officers in connection with the control and supervision of public, religious and charitable endowments or the regulation of elections, when needed.

201. They would be working not as officers of the Government but as officers of the Board or temple or local committee, to which their services are lent. The Government has a large and experienced staff at its disposal, from which officers are lent even to the Indian States. In the beginning, at all events, the services of some such officers are likely to be needed in some capacity or another for the work of the Board or of the local or temple committees.



We recommend accordingly that section 22 of Act XX of 1863, be amended so as to enable the Board to utilize the services of any officer of the Government as Commissioner or in connection with the work of the Board or the work of any temple or local committee, for which a loan of his services may be obtained from the Local Government, or to associate any such person in any other work, connected with the Board or committee, otherwise than in his official capacity.

202. *Interference by Executive Government excluded.*—But save as above provided, the Local Government or any executive officer thereof should have no concern with the administration, management or superintendence of any *math* or temple or religious or charitable institution under the control or protection of the Board. Except where the services of any officer have been lent to the Board or committee, the committee does not desire that any Government officer should have in his official capacity any concern with the management of any religious or charitable institution; and it would be useful to give an assurance that save as above provided no interference by the Executive Government would be permissible. Section 80 of the Madras Religious Endowments Act (II of 1927) contains a similar provision.

We recommend that save as above provided, it should not be lawful for the Local Government or for any executive officer of the Local Government in his official capacity to undertake or assume the superintendence of any land or other property, granted for the support of or otherwise belonging to any *math* or temple or other religious institution, or to take any part in the management or appropriation of any endowment made for its maintenance or the appointment of trustees, or to be concerned in any other way with any such institution.

203. *Powers of District and Municipal Boards.*—Section 91, clause (c) of the U. P. District Board Act empowers the District Boards to make provision for the management of any public or private charity or trust placed by the order or with the consent of the Local Government under the Board; and section 147 of the same Act declares that all tanks and all adjacent lands, buildings, materials, and things, connected therewith or appertaining thereto within the rural area of the district, not being private property and not being maintained or controlled by the Government or by any local authority other than the Board, shall vest in and belong to the Board. A similar provision is contained in section 116, clause (b) of the U. P. Municipalities Act, (II of 1916). Some of the tanks and wells situated in the Municipal or rural areas may be charitable institutions, built by donors for the benefit of the public and the possibility of any conflict of jurisdiction with



the District and Municipal Boards in regard to such tanks or wells should be obviated.

We recommend accordingly that section 147 of the U. P. District Boards Act (X of 1922) and section 116 of the U. P. Municipalities Act (II of 1916) be amended so as to avoid any possible conflict of jurisdiction in regard to the property, falling within the purview of the Board of Commissioners.

204. *Act I of 1880.*—The Religious Societies Act (I of 1880) provide a simple remedy for the appointment of new trustees for the management of institutions intended for religious worship, where no manner of appointing such new trustees is prescribed by the instrument of foundation or such trustees cannot for any reason be appointed in the manner so prescribed. Section 3 of that Act provides that the appointment of the new trustees can be made by a memorandum under the hand of the chairman for the time being of the meeting, at which such appointment is made, and directs that where such memorandum is executed and attested by two or more credible witnesses in the presence of such meeting and registered in the manner required by the Indian Registration Act, the property subject to the trust shall thereupon vest in such new trustees and the old trustees jointly, or if there are no old continuing trustees, in such new trustees wholly, upon the same trust and with and subject to the same powers and provisions as it was vested in the old trustees. The benefit of that Act has not been extended to Hindus, Moslems or Buddhists. The result is that where any of the trustees have died and no provision is made for the appointment of new trustees in the instrument of foundation, the appointment can only be made by an application to the proper court. It is proposed to empower the Board of Commissioners to appoint trustees in such cases, but it is possible that the Board may receive no information till some one interested moves in the matter. If the Act is extended to Hindus, an alternative and simpler remedy will be available to the people interested to appoint such trustees themselves by calling a meeting with the consent of not less than two-thirds of the members of such bodies actually present at the meeting and executing and registering a memorandum, embodying such appointment in the manner prescribed. We recommend accordingly that the Religious Societies Act (I of 1880) be extended to Hindus.

205. *Land Acquisition Act to be made applicable.*—It has been brought to our notice that in some places the land appertaining or adjacent to a temple or religious institution has been disposed of by the Mahant or trustee and the transferee has been in possession sufficiently long to prevent an action being taken against him in ejectment. We



also found that in some places the acquisition of some land adjacent to a temple or a religious place of worship, where periodical fairs are held, would enable the committee in charge to improve the approaches or surroundings or the sanitation or health of the locality and thereby promote the convenience of the pilgrims, who have to go to that locality for purposes of worship. The Vishwanath temple at Benares, the Vindhyavasini temple at Vindhyachal and many other temples are situated in congested localities; and on the days when periodical fairs are held, the approach road and the entrance leading to the temple get crowded, and it is not possible to provide alternative routes for men, women and children going in or coming out, or to leave sufficient open spaces for people to sit and have a little rest or shelter after a prolonged journey. The trustees find it difficult to obtain the land to make the necessary improvements by private negotiations with the owners of the adjacent areas. In the case of a religious or charitable institution, intended for the benefit of the public or any sect or section of the same, the acquisition of the adjacent area to improve the sanitation, health or conveniences of the pilgrims visiting the place, cannot but be regarded as a public purpose, and the Board of Commissioners should be empowered to move the Land Acquisition Officer to acquire the same for the purpose mentioned at the expense of the institution concerned. The grant of a similar facility to get back the land or property, wrongfully sold by a Mahant or trustee in charge of the property, on payment of the purchase money would materially help to eliminate litigation. The benefit of the Land Acquisition Act has been extended to the Improvement Trusts by section 56 of the U. P. Act II of 1914, to the Municipal Board by section 117 of the U. P. Act II of 1916, and to the District Boards by section 150 of the U. P. Act X of 1922. The benefit of the Act should similarly be extended to the Board of Charity Commissioners to enable them to apply for the compulsory acquisition of land for the benefit of any particular institution falling within its jurisdiction, when needed.

206. It has been suggested that where a turn of worship or a right to the priestly office has been sold or has passed to third persons, belonging to another faith or *sampradaya* a similar right to claim back the same on payment of the purchase money should be conferred on the Board. The instances of such transfers are confined to the eastern districts, and as the Land Acquisition Act is inapplicable to such rights, it would be best to leave them to be settled by private negotiation or by a suit.

207. *Indemnity of Charity Commissioners and their servants.*—The Commissioners will be charged with responsible duties in connection with the control, superintendence or supervision of religious



and charitable institutions; and it is desirable that for the purposes of protection or indemnity they and their officers, servants or agents, acting in the discharge of their duties, should be regarded as public officers; and except where they have acted in bad faith or from malice, protected from any suit or claim for damages or prosecution in regard to any act done by them in their official capacity. A trustee guilty of any breach of trust cannot escape responsibility for the loss occasioned thereby; but section 30 of the Indian Trusts Act (II of 1882) lays down that the trustee shall not be liable for the loss of any trust property placed in the hand of any banker, broker or other person nor for the insufficiency or deficiency of any stocks, funds or securities, nor otherwise for any involuntary losses.

208. Section 24 of the Ancient Monuments Preservation Act (VII of 1904) provides that no suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act done or in good faith intended to be done in the exercise of any power conferred by that Act. Section 96 of the U. P. Town Improvement Act (VIII of 1919) lays down that no suit shall be maintainable against the Trust or any trustee or any officer or servant of the Trust or any person acting under the direction of the Trust or of the Chairman or of any officer or servant of the Trust in respect of anything lawfully and in good faith and with due care and attention done under that Act. A similar immunity is granted by other Acts in respect of acts done by the officers or servants employed under those Acts, in good faith and in the discharge of their public duty; and an entry for purposes of inspection, valuation, search or enquiry or for other necessary purposes is equally protected. The Board of Commissioners and their officers, agents, and employees should be protected like other public officers in respect of any act done by them in their official capacity; and it should be provided that no suit, prosecution or other proceeding whatsoever shall lie against any such person for or on account of or in respect of any act, matter or thing ordered or done or purporting to having been ordered or done in his official capacity for the purposes of securing the better administration of Hindu public religious or charitable endowments except when such person has not acted in good faith and a reasonable belief that his action was necessary for the abovementioned purpose.

209. We have purposely avoided going into the minute details connected with the working of the proposed scheme, and have dealt only with the broad outlines or main principles underlying it, for if the underlying principles are once accepted, the details can be easily



worked out. We have not proposed any interference with *Akharas* and societies, which have obtained registration under the Societies Registration Act, and the *maths* or *Asthans* affiliated and attached to them, because we believe that so long as they furnish accounts, they can be left to carry on their own administration according to the memorandum of Association, by which their members have agreed to bind themselves. We have proposed a Board of Commissioners with temple or local committees, to be constituted wherever needed, for the work of local superintendence of all other institutions and we have made provision for men of the *Sampradaya* or sect concerned to be co-opted in every enquiry where any matter or dispute relating to an institution of that *sampradaya* is concerned. We have provided a simpler and speedier method of settling disputes and removing mismanagement and we trust that as an initial step these measures will meet with public approval.

210. It has at times been suggested that only certain sections of the Hindu community who have received western education or are imbued with western modes of thought have been demanding increased powers for the regulation, superintendence or supervision of religious and charitable endowments. The voluminous evidence produced before the committee comprising people of all classes and shades of opinion will, however, show that it has been as much a matter of complaint with the conservative sections of the community as with the educated classes that the Government has not made adequate provision to prevent effectively the mismanagement of endowed property. The educated classes and the members of the Legislature have only been voicing the feelings of the general public in this respect.

211. *Saving Clause.*—The effect of these proposals, if accepted by the Legislature, will be to repeal those portions of the Bengal Regulation XIX of 1810, and Act XX of 1863, which relate to the management or control of charitable or religious endowments or trusts in these Provinces, and to exclude the operation of sections 92 and 93 and Rule 8 of Order I of the Code of Civil Procedure in respect of any relief, which may be pending or may have been granted in respect of the management or administration of religious or charitable endowments or trusts of a public nature in conformity with the provisions hereinbefore recommended. But nothing herein contained is intended to affect any charitable endowment or trust, the property of which is vested in the Treasurer of Charitable Endowments or the Administrator General or the Official Trustee, or is in the charge for the time



being of a Receiver, appointed by a court of competent jurisdiction. The powers which the Advocate-General may exercise under sub-section (2) of section 114 of the Government of India Act, 1915, in respect of property situated outside these provinces, will also remain unaffected.

## CHAPTER VII.

### FINANCIAL PROVISION.

212. *Expenses of the Board and Committees.*—The general superintendence and control provided by the scheme would require some financial provision to meet the expenditure. The President of the Board, in whom the executive powers of the Board shall be vested, should be a whole-time officer; and no man of the requisite experience and capacity can be secured for the purpose without an adequate salary. The other Commissioners may also be whole-time officers, but if the finances available do not permit it, they may be part-time officers and may be paid a daily allowance for every sitting they attend. The Board would besides require an adequate ministerial and inspecting staff to carry on its work; and the temple and local committees, the membership of which should be honorary, would similarly require some staff for their work.

213. *Contribution from religious and charitable institutions.*—If the expenses of local or temple committees are to be met in each locality from contributions to be levied from the temples and the religious and charitable institutions of the place at a fixed percentage, it is feared that in some places the income may be excessive, and in other places not sufficient to meet the expenditure. If the Board is allowed to levy a fixed percentage from the religious and charitable institutions for its own purposes and for the purpose of the local and temple committees, it can allocate the funds required for the local or temple committees in a suitable manner and keep the rest for the expenses of the Board. But there may be an objection to the moneys collected from the local or temple committees of one place being used for the local or temple committees of another place.

The Madras Hindu Religious Endowments Act (II of 1927) allows the levy of separate contributions for the expenses of the Board, and for the expenses of the temple committees, where constituted; and it would be desirable that a similar practice should be adopted here, and the Board allowed to levy for its own expenses an annual contribution at a fixed percentage, not exceeding one per cent., and for the expenses of local or temple committees, where constituted, a similar annual contribution at a rate not exceeding one per cent. of the gross income.



214. It would be desirable in any case to exclude institutions, whose gross income does not exceed rupees 600 per annum. The managers of the religious and charitable institutions examined have in most cases stated that their income from offerings was insufficient to meet the expenses connected with the maintenance of the priestly staff and the repairs of the institutions in their charge, and they have expressed their inability to make any contributions to the expenses of the Board. In fact charitable institutions like *dharamshalas*, *ghats*, tanks and the like can have little or no income of their own; and the income derived from the offerings made at the temples or places of religious worship, being primarily intended for the priestly staff, attached to the institution and the expenses connected with the maintenance of daily worship and the celebration of periodical festivals, and observances, cannot be diverted to any other use.

215. *Aid from Local Government.*—There are certain temples, Akharas and *maths* to which considerable endowments are attached and it is difficult to say that they cannot provide a small contribution not exceeding 1 per cent. of the gross income to meet the expenses of the Board. The manner in which the income is to be assessed can be settled by rules to be framed by the Local Government in consultation with the Board. If the Akharas and societies registered under the Societies Registration Act and the *maths* and *asthans* attached to them are excluded from the contribution, the amount leviable from the other institutions would be inadequate to meet the expenses of the Board; and unless the Local Government makes a substantial contribution to the expenses of the Board it shall not be able, it is feared, to meet its liabilities.

216. *Maintenance of Christian episcopal staff.*—The Government bears considerable expenditure in connection with the maintenance of a large episcopal staff to minister to the religious needs of certain classes of the Christian population under sections 118 to 123 of the Government of India Act, 1915; and it is not too much to expect that the Government should give a substantial financial help not, it may be observed, for the maintenance of Hindu or Moslem places of worship, but for the general superintendence of Hindu and Muhammadan religious institutions to prevent the waste of the public funds or property, attached thereto. The obligation which the Government owes to the Hindu, Moslem and Christian populations are alike; and if public funds can be used for the benefit of the Christian population, the demand of some financial assistance for the control and supervision of Hindu and Muslim religious institutions cannot be regarded as unreasonable.



217. *Repair and maintenance of public edifices.*—Section III of the Bengal Regulation (XIX of 1810) provided that it shall be the duty of the Board of Revenue and the Board of Commissioners to provide with the sanction of the Government for the due repair and maintenance of all public edifices, which have been erected either at the expense of the former or present government or of individuals, and which either at present are or can be conveniently rendered conducive to the convenience of the community; and yet despite the above Regulation, there are many important public buildings, *ghats*, *dharamshalas*, *sarais*, and other places of public utility, which are lying neglected and uncared for, because they do not happen to be monuments of historical or anti-quarian interest. It is impossible for the Board to meet the expenditure for the repair and maintenance of these institutions, without adequate assistance from the public and from the Government.

218. *Advantages of provincializing the Board.*—Referring to their financial difficulties, the Board of Commissioners, Madras, have pointed out in their annual administration report for 1928-29, that the financial difficulties of the Board were a great handicap to the efficient functioning or working of the Board. They suggest that the Board should be provincialized and that the charges of the Board and of its officers and employees should be paid out of the provincial funds. The chief advantages which, it is urged, would accrue by the provincialization of the Board would be that the Board would be relieved of financial uncertainties and will be able to devote better attention to overhauling the administration, that it would command greater prestige among the people, that a sense of security, at present lacking, will be introduced and that there will be much greater chances of co-operation between the Board and the revenue, registration and other departments. The public will be benefited by the maintenance of proper records of endowments, the publication of the accounts and the removal of refractory managers or trustees, and no expenditure necessary for these purposes should be grudged.

219. *Escheated property to be utilized.*—It has been suggested by some witnesses that the Government should be asked to make over all escheated properties left by Hindus dying without heirs, to the Board for the purpose of meeting the expenses of the Board, and the cost of the repairs and maintenance of temples, *ghats* and other charitable buildings of public utility. No figures are available as to the income likely to be available from the proceeds of such property; and the question is not one, on which it is easy to formulate a definite recommendation. It would be sufficient to say that without a substantial



contribution from the Local Government it will be difficult for the Board to carry on its work; and it will be for the Government to consider from which source the contribution is to be paid.

220. *Levy of fees and duties not practicable.*—The British Government at one time levied fees, varying from Rupees two to Rupees six per head from pilgrims visiting the Shri Jagannathji temple at Puri, and enforced the payment by Regulations beginning with Bengal Regulation IV of 1806. The Government also levied duties from pilgrims visiting the confluence of the rivers Ganges and Jumna at Allahabad for ablutions, varying from Re. 1 to Rs. 20 per head. By Regulation XVIII of 1810 the access to the place of ablution was restricted to a certain number of gates or avenues, through which people were admitted on the production of a prescribed license or "*Muafee Chittee*", and a sufficient military force was made available to the Collector on demand on *mela* days, to be posted at the said barriers to prevent the concourse of people from breaking through the barriers or otherwise forcing the admission. These fees and duties were repealed by Act I of 1840. They were resented by the people, when they were imposed; and they would be resented even more strongly now. An attempt was made at one time to levy admission fees from pilgrims, visiting the inner sanctuary of the temple of Shri Ranchhod Raiji at Dakore; and on the matter going up to the Bombay High Court it was held that the temple was intended for public worship and the rules prescribing the fees for admission were illegal and ultra vires <sup>(1)</sup>. The witnesses examined by the committee, without exception, oppose the levy of any such fees for admission to the temples intended for public worship; and the proposal to raise a fund by that means to meet the expenditure of the Board or to defray the expenses of improvements cannot be seriously entertained.

221. Our recommendation is :—

(1) That the Local Government should make such contribution to the expenses of the Board as may be needed to meet its expenses,

(2) that every religious or charitable institution within the jurisdiction of the Board shall pay such annual contribution, not exceeding 1 per cent. of its gross income as the Board may determine and such contribution, when collected, shall form a fund for the general purposes of the Board; and a similar annual contribution shall be levied at a rate not exceeding one per cent. of the gross income for the expenses of the local or temple committees wherever constituted from the religious or charitable institutions of the locality or the temple concerned.

(1) Asharam v. Manager of Dakore Temple Committee, I. R., 44 Bombay, 150.



But in either case, no such contribution shall be levied from an endowment or institution which does not possess a gross income of more than Rs. 600 per year.

We further recommend that the religious endowments, the administration of which is governed by schemes settled under section 92 of the Code of Civil Procedure 1908 shall, notwithstanding anything contrary in such scheme, be equally liable to pay the contributions aforesaid.

222. *Some practical difficulties.*—The Madras Board of Hindu Religious Endowments has found some difficulty in recovering the prescribed contributions from the endowments concerned and in realizing the cost of audit. In fact the Board had to take loans from time to time from the Madras Government to meet its expenditure. The Board has suggested that the services of the Local Fund auditors should be available to the Board free of charge. The endowments in these provinces are not so extensive as in Southern India; and the Board may find here considerable difficulty unaided in meeting its expenditure and paying the cost of audit from its funds. The services of local fund auditors are granted free of charge for the audit of accounts relating to securities and properties vested in the Treasurer of Charitable Endowments under Act VI of 1890. The Government can allow the use of their services for the audit of the accounts of the Board and of the religious and charitable institutions under its charge in the same manner. The Board should in any case be empowered to recover all costs and expenses incurred in connection with the legal proceedings relating to any institution or endowment, to which a Board or a Committee may be a party, and the audit of the accounts from the funds of the endowment or institution concerned. Sections 48 and 68 of the Madras Religious Endowments Act (II of 1927) and section 8 of Act XIV of 1920 make provision for similar contingencies; and we recommend that some such provision should in any case be made for the recovery of the costs and expenses incurred in connection with the legal proceedings or audit from the endowment or institution concerned.

223. *Recovery of contributions, costs and expenses.*—It is at the same time necessary to provide some summary remedy for the recovery of such costs and expenses and for the recovery of contributions to be levied from the endowments and institutions, liable for the same. They can be made recoverable either as arrears of land revenue by an application to the collector or like a decree or order by an application for execution, on a certificate by the President of the Board or the local or temple committee, to the District Court, as if a decree had been



passed therefor by the court against the endowment or institution concerned and the amount due should be realizable from the income or funds appertaining to such endowment or institution by sequestration or attachment, or by the appointment of a Receiver, as may be deemed fit.

224. We recommend that the latter course would be more suitable, and that the costs, expenses, and contributions payable shall be assessed on and notified to the trustee of every endowment or institution in such manner as may be prescribed and any arrears due on account of the costs, expenses, and contributions shall be recoverable on application to the District Judge, as if a decree had been passed therefor against the endowment or institution concerned, from the income, produce or funds, appertaining to such endowment or institution by sequestration, attachment or sale, or the appointment of a Receiver, as may be deemed fit.

## CHAPTER IX.

### SUMMARY OF RECOMMENDATIONS.

227. We give below a summary of the recommendations made in the report :—

(1) *Board to be constituted.*—That the general superintendence, and supervision of Hindu public religious and charitable endowments and trust be vested in a Board of not more than three Commissioners, to be appointed by the Local Government on such remuneration or allowance as may from time to time be fixed. The Board shall be a body corporate and shall be entitled to sue and be sued in its own name (paragraphs 109—122).

(2) *Jurisdiction.*—That the Board shall exercise jurisdiction over all public endowments or institutions belonging to the Hindu community or any sect or section thereof, which are or may be endowed for religious or charitable purposes, other than societies or institutions incorporated or constituted under any Act of the Legislature or unendowed charities or institutions founded solely for imparting education or for the charitable relief of persons or cattle and maintained and carried on wholly by voluntary contributions (paragraphs 123—125).

(3) *Mixed Resources.*—That in the case of mixed charities or religious institutions, that is to say, those maintained partly by voluntary subscriptions and partly by the income of an endowment, the jurisdiction of the Board shall not extend to the voluntary subscriptions,



or to the amount so collected, unless the same is invested or set apart for some definite public object connected with the foundation or trust (paragraph 126).

(4) *Mixed Trusts.*—That where an endowment has been created or property given, partly for a religious or charitable object, and partly for a secular purpose, not falling within the jurisdiction of the Board, it shall be open to the Board to undertake the control of the whole trust or to determine what portion of the property endowed or the income thereof shall be allocated to religious or charitable purposes falling within the purview of the Board. The whole or such portion thereof shall thereafter be administered as if it were endowment for religious or charitable purposes alone (paragraph 128).

(5) *Qualification of Commissioners.*—That the Commissioners shall be persons, professing the Hindu religion, and that a Commissioner, who ceases to profess the Hindu religion, shall be disqualified to hold that office (paragraph 129).

(6) *Qualification of President.*—That the President shall be a person who has either held administrative or judicial office in the Provincial Executive or Judicial service or other higher office for a period of not less than ten years, or has practised as an advocate or pleader for not less than ten years, and that the executive powers of the Board shall be vested in the President and exercised through him (paragraph 130).

(7) *Tenure of office.*—That every Commissioner, including the President, shall hold office for a period not exceeding five years from the date of the appointment, but if on the date of his appointment as President he was a Commissioner, such President shall be entitled to hold office as President only up to the expiry of his term as Commissioner, and the outgoing President or Commissioner shall, if otherwise qualified, be eligible for re-appointment (paragraph 131).

(8) *Removal or suspension of Charity Commissioners.*—That the Local Government shall have power to suspend or remove any Commissioner from his office,—

- (a) if he is convicted by a criminal court of any offence, which, in the opinion of the Local Government, involves moral turpitude, or
- (b) if he becomes of unsound mind or otherwise physically incapable of performing his duties, or
- (c) if he applies to be adjudicated or is adjudicated a bankrupt or an insolvent, or



(d) for corruption, misconduct or other sufficient cause (paragraph 132).

(9) *Functions of the Board.*—That the Board shall keep a record of all Hindu public religious and charitable endowments and institutions in the United Provinces, and adopt measures to protect the properties belonging to them against loss, wastage or alienation, to check and stop the diversion, misappropriation or misapplication of the income, property or funds of such endowments or institutions in any manner not consistent with or contrary to the objects of the trusts, and to provide a simple and economical way of carrying out the religious or charitable intentions of the founders, where such intentions are inadequately expressed in the instruments of foundation (paragraphs 133-134).

(10) *Register of endowments and trusts.*—That a register shall be maintained by the Board of all *akharas*, *asthans*, temples, Dharam-shalas, endowments or other institutions for religious or charitable purposes of a public nature in these provinces, giving the following particulars in regard to each :—

- (a) the history of its constitution, foundation or origin,
- (b) the constitution of the committee of management or trustees or other scheme of administration, with the names and addresses of the Mahant, manager, superintendent or other persons in charge,
- (c) the objects of the endowment, trust or foundation,
- (d) the properties, movable and immovable attached thereto, with the approximate value and income thereof,
- (e) the annual expenditure sanctioned or incurred for—
  - (i) religious or charitable purposes, and
  - (ii) the staff employed during the preceding three years, and
- (f) the customs or usages as to the religious observances and the appointment, election or succession of Mahants, trustees or managers.

These particulars shall be supplied by every such institution duly signed and verified by the Mahant, trustees, or manager in charge thereof, with a certified copy of the instrument of foundation, if any, within a period to be fixed by the Legislature; and the failure to supply those particulars without sufficient cause should be penalised. All changes in the constitution of the governing body should be required to be similarly notified to the Board within a certain period and with a penalty to be charged for delay or omission. All these particulars



shall be entered in a register to be separately maintained for each district; and a certified copy of those particulars in regard to any institution should be declared to be admissible in evidence of the matters therein recorded (paragraphs 135—143).

(11) *Enquiries by the Board.*—That the Board may, acting collectively or through any of their members, or the members of a local or temple committee, or other officers employed for the purpose, enquire into the condition, history, working and management of all public religious and charitable endowments and institutions which are not expressly exempted from their jurisdiction, and for this purpose the Board may take evidence, make an inspection or local enquiry, require statements and written answers to queries, verified by oath or otherwise to be furnished, or books of accounts, documents or other papers to be produced by the trustees or persons acting or concerned in the management or administration of such institutions or having the possession or control of property, moneys, income, papers or documents relating thereto or by their agents or depositaries or the beneficiaries or recipients of such charities (paragraphs 144—146).

(12) *Disputes as to jurisdiction.*—That when any dispute arises as to whether any religious or charitable institution is one to which these provisions apply or is not excluded from the jurisdiction of the Board, such dispute shall be decided by the Board, but the party aggrieved by such decision may within one year from the date of such decision sue in a competent court to cancel or modify such decision, but subject to the result of the suit the decision of the Board shall be final (paragraphs 147—150).

(13) *Powers of the Board.*—That the Board shall have, on the application of any two persons or a registered body interested in the trust, or on the report of any local or temple committee, the power—

- (a) to enquire into any complaints of breach of trust, neglect of duty, misfeasance, malfeasance, or physical incapacity, rendering the person in charge of an endowment or trust unfit for the discharge of his duty;
- (b) to direct an account to be taken from him;
- (c) to remove any Mahant, trustee, manager or superintendent so found guilty;
- (d) to appoint a new person to fill up a vacancy;
- (e) to settle a scheme for the proper administration of the trust or endowment, or to alter or cancel the same when necessary;



- (f) to direct the vesting of the property in the trustee or trustees so appointed :

Provided that an appeal shall be allowed from the order of the Board to the High Court within such time as may be fixed by the Legislature; but subject to the result of such appeal the order shall be final (paragraphs 151—158).

(14) *Removal or suspension for contempt.*—That the Board or a local or temple committee shall have the power—

- (a) to require the annual submission of accounts, reports or returns as the Board may from time to time prescribe or require; and
- (b) to issue any directions or orders with respect to the protection, preservation, restoration or recovery of the endowed properties or the income, funds or proceeds thereof as may from time to time be considered necessary.

A Mahant, trustee, manager or superintendent in charge of an endowment or trust guilty of persistent misconduct in the submission of accounts, reports or returns, or wilful disobedience of such directions or orders shall be liable to suspension or removal by the order of the Board; but it shall be open to the Board at any time to revise, alter or cancel that order, if such person penitently submits to the authority of the Board and carries out or undertakes to carry out its directions or orders (paragraph 159).

(15) *Special Judicial Tribunal.*—That where it appears to the Board that a special judicial tribunal will be better qualified to deal with any particular enquiry or dispute more effectively or with greater promptitude, the Board should have power to move the Local Government to appoint a special judicial tribunal of not more than three judges for the decision of such enquiry or dispute. An appeal shall lie from the decision of such tribunal to the High Court, but subject to the result of the appeal the decision of the tribunal shall be final (paragraph 160).

(16) *Removal or settlement of scheme by court.*—That notwithstanding anything herein contained or provided by sections 92 and 93 and order I, rule 8 of the Code of Civil Procedure, the Board shall, where it appears that the matter is more fit to be adjudicated by any of the existing courts, have the power either to institute a suit or to grant permission in writing to any two or more persons, or a registered body having interest in the endowment or trust, to institute a suit in the principal civil court of original jurisdiction, or in any other court



empowered in this behalf by the Local Government, within the local limits of whose jurisdiction the whole or any part of the subject matter of the trust is situate, to obtain a decree—

- (a) removing any trustee, superintendent or manager,
- (b) appointing a new trustee, superintendent or manager,
- (c) vesting any property in a trustee,
- (d) directing accounts and enquiries,
- (e) declaring what portion of the trust or endowed property or of the income thereof shall be allocated to any particular object of the endowment or trust,
- (f) settling scheme, or
- (g) granting such further or other relief as the nature of the case may require (paragraph 160).

(17) *Power to co-opt for purposes of enquiry.*—That the Board shall co-opt for the purposes of any enquiry relating to the existence, nature or extent of any endowment or trust or any alleged breach of trust, misconduct, malfeasance, misfeasance, neglect of duty, or physical incapacity of any Mahant, trustee, superintendent or manager of any institution not more than three persons of the Sampradaya or religious sect to which that institution belongs, and such members, when co-opted, shall act as co-judges and be entitled on the conclusion of the enquiry to record their opinion or report on any point connected with the enquiry, and such opinion or report shall form a part of the record (paragraphs 161—169).

(18) *Appointment of committee.*—That the Local Government may on the recommendation of the Board by notification—

- (a) direct the constitution of a committee for any local area, or any class or classes of institutions in any local area, other than *akhuras* and societies registered under the Societies Registration Act (XXI of 1860), or the *maths* and *asthans* appertaining or attached to them,
- (b) vary the strength or the jurisdiction of any such committee,
- (c) fix the period for which it is to be constituted,
- (d) suspend or abolish the same after enquiry for any sufficient cause (paragraphs 170-171).

(19) *Strength, constitution and function of committees.*—That such local or temple committee shall consist of not less than three and not more than seven members professing the Hindu religion, and



that in the case of temple committee they shall be persons belonging to the same Sampradaya or religious sect to which the institution concerned belongs. They shall work under the control of the Board, which shall assign the functions to be exercised by them (paragraph 172).

(20) *Rules for future elections.*—The Board shall as soon as may be expedient after the registration of public religious and charitable endowments is completed frame rules for the election of members of such local or temple committees, the qualification of the voters, the preparation of electoral rolls and the regulation of elections, and such rules, on being sanctioned by the Local Government, shall come into force from such date as may be fixed by the notification (paragraph 173).

(21) *Election of president and vice-president.*—That a local or temple committee shall have power to elect its own president and a vice-president, and subject to the control of the Board the entire executive power of the committee shall be vested in the president, and in his absence in the vice-president (paragraph 174).

(22) *Appointment, removal and punishment of staff.*—That the Board shall from time to time determine the number, designation, grade and the scales of salary or other remuneration of its officers and servants, and of the officers and servants to be appointed to each committee and fix the travelling allowance payable to them. Subject to the control of the Board or the committee concerned the president of the Board and the president of the local or temple committee shall have the power to appoint such officers and servants for the Board and committee respectively, and to fine, reduce, suspend, remove or dismiss them for unfitness, neglect of duty, misconduct or other sufficient cause (paragraph 175).

(23) *Alienation of trust property or priestly office.*—That no trustee, superintendent, manager, Mahant or other person in charge of any public religious or charitable institution shall have any power to transfer or alienate the property, funds or income appertaining to it by sale, mortgage, exchange or otherwise, or to grant a lease thereof for a term exceeding five years except with the previous sanction of the Board; and no such transfer, exchange or sale or mortgage or a lease for a period in excess of five years, made in contravention thereof, or of any turn of worship or of a right to a priestly office in connection with any temple or religious institution, not made in favour of persons who are co-shares therein and are of the same religious persuasion or Sampradaya as the temple or religious institution concerned, shall be regarded as valid or operative (paragraphs 176—179).



(24) *Schemes settled under section 92 of the Code of Civil Procedure.*—That schemes settled under section 92 of the Code of Civil Procedure shall be deemed to be schemes settled by the Board; but the Board shall have power to move the proper authority to cancel or modify the same from time to time (paragraph 180).

(25) *No diversion of property or savings or interference with religious observances.*—That the Board or committee shall have no power—

(a) to divert the income or property or surplus funds of any Hindu public religious or charitable institution to any purposes unconnected with that institution or inconsistent with the intentions of the founder, or

(b) to interfere with the religious worship, ceremonies, practices or instruction conducted thereat, or

(c) to interfere with or disturb any established usage, rites, honours, emoluments and perquisites to which any person may by custom or otherwise be entitled in any institution (paragraphs 181—183).

(26) *Cypres application.*—That where a grant appears to have been made for a charitable purpose without specifying the mode in which that purpose is to be carried out or the definite object to which the endowment is to be applied, or where a clear charitable intention is expressed but the object specified fails, or the mode in which it is to be carried out cannot be executed, the Board shall have power to give effect to the charitable intention of the donor, so far as it can be ascertainable, by applying or substituting another mode *cypres*, that is, as near as possible to give effect to that intention (paragraphs 184-185).

(27) *Expenditure on improvements or investments.*—That the trustees of every *math*, *asthan*, temple or religious or charitable institution may, out of the funds of the endowment in their charge, after satisfying adequately the purposes of the endowments, incur expenditure on arrangements for securing the health, safety or convenience of the pilgrims or worshippers visiting the institution or making such improvements as the conditions or circumstances of such institution may require; and they shall also be entitled to invest such surplus funds in the purchase of any property or land for the benefit of the institution, or in such securities as the Board may approve (paragraph 186).

(28) *Putting trustee in possession.*—That where the Board or Tribunal has appointed a person or a body of persons as trustees of a public religious or charitable endowment or institution, and such person is resisted in or prevented from obtaining possession of the endowment or



institution and of the properties, funds or moneys connected therewith or of any title deeds or other documents relating thereto, the District Court may, on an application by the person so appointed and on the production of a certified copy of the order of the Board or the Special Tribunal appointing him, order the delivery to such person of the possession of such property, funds, moneys or documents as may be specified therein (paragraph 187).

(29) *Ad interim administration.*—That where a vacancy occurs in the office of Mahant, trustee or manager of a religious or charitable endowment or institution, other than an *akhara* or society registered under the Societies Registration Act, or where there is a dispute regarding the right of succession to such office, or where such vacancy cannot be filled up immediately, or where the person entitled to succeed is a minor and has no legally constituted guardian fit and willing to act as such, or where there is a dispute as regards the person who is entitled to act as such guardian, or when a Mahant or trustee is by reason of unsoundness of mind or other physical infirmity unable to discharge his duties, the president of the Board or, where there is a local or temple committee, such local or temple committee may appoint a fit person to discharge the functions of the Mahant, trustee or manager until another is duly appointed to the office or the disability of the Mahant, trustee or manager ceases to exist. Any such action taken by a local or temple committee, shall be reported forthwith to the Board for confirmation, and the orders of the Board thereon shall be final (paragraph 188).

(30) *Amendment of the Societies Registration Act.*—That the Societies Registration Act (XXI of 1860) be amended so as—

- (i) to require every society registered under it for charitable purposes falling within the jurisdiction of the Board—
  - (a) to keep a regular account of its income and expenditure,
  - (b) to maintain a record of its proceedings,
  - (c) to maintain a register of members of such society,
  - (d) to maintain a register of movable and immovable property belonging to the society,
  - (e) to submit an annual report of its work with an audited statement of its accounts to the Board of Charity Commissioners, and
  - (f) to report to the Board every change in its constitution, objects or the members of its governing body; and
- (ii) to declare that the trustees or members of the governing body shall individually and collectively be chargeable for such



property as shall come into their hands and answerable and accountable for their respective acts, receipts, neglects or defaults and for the due administration of the charity and its property in the same manner and to the same extent as if no such incorporation had been effected (paragraphs 190—192).

(31) *Article 134 of the Indian Limitation Act.*—That Article 134, Schedule II of the Indian Limitation Act, be amended so as not to affect public, religious or charitable endowments or trusts or the property appertaining thereto, and in any case so as to exclude transferees acquiring property with a notice of the breach of trust from its purview, and to extend the period of limitation in other cases of sales or transfers by trustees in breach of the trust from twelve to sixty years from the date of transfer (paragraphs 193—195).

(32) *Section 22 of Act XX of 1863.*—That section 22 of Act XX of 1863 be amended so as to enable the Board to utilise the services of any officer of the Government as Commissioner, or in connection with the work of the Board or the work of any temple or local committee, for which a loan of his services may be obtained from the Local Government, or to associate any such person in any other work connected with the Board or committee otherwise than in his official capacity (paragraphs 196—201)

(33) *Restriction of Government interference.*—That save as hereinbefore provided it shall not be lawful for the Local Government or for any executive officer of the Local Government in his official capacity to undertake or assume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any *math* or temple, or to take part in the management or appropriation of any endowment made for its maintenance or the appointment of trustees or managers or to be concerned in any other way with any such religious institution (paragraph 202).

(34) *Conflict of jurisdiction.*—That section 147 of the U. P. District Boards Act (X of 1922) and section 116 of the U. P. Municipalities Act (II of 1916) be amended so as to avoid any possible conflict of jurisdiction in regard to property falling within the purview of the Board of Commissioners (paragraph 203).

(35) *Amendment of Act I of 1880.*—That the Religious Societies Act (I of 1880) be amended so as to extend the provisions of that Act to Hindu public religious endowments or places of religious worship (paragraph 204).



(36) *Extension of the Land Acquisition Act.*—That a provision should be made for extending the benefit of the Land Acquisition Act to the Board to enable it to apply for the acquisition of land for the benefit of any particular charitable or religious institution falling within the jurisdiction of the Board (paragraph 205).

(37) *Indemnity and protection.*—That the Charity Commissioners and the members of any local or temple committee and their officers, agents or employees shall be protected like other public officers in respect of anything done by them in their official capacity, and no suit, prosecution or other proceeding whatever shall lie against any such person for, or on account of, or in respect of any act, matter or thing ordered or done, or purporting to have been ordered or done in his official capacity for the purpose of securing the better administration of Hindu public religious or charitable endowments, except when such person has not acted in good faith and a reasonable belief that his action was necessary for the abovementioned purpose (paragraphs 207-208).

(38) *Contribution by Government towards expenses.*—That the Local Government shall make such contribution to the expenses of the Board as may be needed to meet its expenses (paragraphs 216—221).

(39) *Annual contribution from endowments.*—That every religious and charitable endowment or institution within the jurisdiction of the Board shall pay annually such contribution, not exceeding one per cent. of its gross income, as the Board may determine; and such contribution, when collected, shall form a fund for general purposes for the work of the Board. A similar annual contribution shall be levied at a rate not exceeding one per cent. of the gross income for the expenses of the local or temple committee, wherever constituted, from the religious or charitable institutions of the locality or the temple concerned. But in either case no such contribution shall be levied where the endowment or contribution does not possess a gross income of more than Rs. 600 per year (paragraphs 212—221).

(40) *Annual contribution from endowments governed by schemes settled under section 92 of the Code of Civil Procedure.*—That the religious endowments, the administration of which is governed by a scheme settled under section 92 of the Code of Civil Procedure, 1908, shall, notwithstanding anything to the contrary in such scheme, be equally liable to pay the contribution aforesaid (paragraph 221).

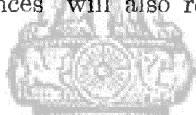
(41) *Liability of endowment for expenses incurred in audit or legal proceedings.*—That all costs and expenses incurred in connection with



the audit or legal proceedings in respect of any endowment or institution to which a Board or a committee is a party shall be payable out of the funds of such endowment or institution (paragraph 222).

(42) *Recovery of costs, expenses and contributions.*—That the costs, expenses and contributions payable shall be assessed on and notified to the trustee of every institution or endowment in such manner as may be prescribed, and any arrears due on account of such costs, expenses or contributions shall be recoverable on application to the District Judge as if a decree had been passed therefor against the endowment or institution concerned from the income, produce or funds appertaining to such endowment or institution by sequestration, attachment or sale, or the appointment of a Receiver, as may be deemed fit (paragraphs 223-224)

(43) *Saving clause.*—That nothing herein contained shall affect any charitable endowment or trust, the property of which is being administered by the Treasurer of Charitable Endowments, the Administrator-General or the Official Trustee, or is in the charge for the time being of a Receiver appointed by a court of competent jurisdiction. The powers which the Advocate-General may exercise under sub-section (2) of section 114 of the Government of India Act, 1915, in respect of property situated outside these provinces will also remain unaffected (paragraph 211).



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## ORDERS OF GOVERNMENT.

### RESOLUTION.

No. 1005/XVI—69.

PUBLIC HEALTH DEPARTMENT.

*September 29, 1931.*

READ—

Reports of the Hindu Religious and Charitable Endowments Committee appointed to advise what steps should be taken to provide for the better governance, administration and supervision of the public religious and charitable endowments, institutions and funds of the Hindu community, including *dharamshalas*, *dharma-dayas* and other institutions of the like nature.

OBSERVATIONS.—In pursuance of there commendation of the United Provinces Legislative Council, expressed in a resolution passed at the meeting of the Council held on March 31, 1926, the Governor, acting with his Ministers, announced in Government Resolution no. 47/XVI—335, dated January 27, 1928, the appointment of a committee to advise what steps should be taken to provide for the better governance, administration and supervision of the public religious and charitable endowments, institutions and funds of the Hindu community, including *dharamshalas*, *dharma-dayas* and other institutions of the like nature. The committee consisted of the Hon'ble Raja Sir Rampal Singh, K.C.I.E., of Kurri-Sudauli raj, district Rae Bareilly, as President and the following gentlemen as members :—

- (1) Swami Atma Swarupji, Hardwar,
- (2) Swami Mangalnathji, Rishikesh,
- (3) Mahant Dharam Dasji, Allahabad,
- (4) Pandit Ram Vallabhasharanji, Ajodhya,
- (5) Goswami Madhusudan Lalji, Brindaban,
- (6) Swami Dayanandji, Benares,
- (7) R. S. Narayan Swamiji, Lucknow,
- (8) Pandit Govind Ballabh Pant Sahib, M.L.C., Naini Tal,
- (9) Rai Bahadur Pandit Kanhaiya Lal Sahib, Allahabad,
- (10) Hon'ble Justice Pandit Gokaran Nath Misra Sahib, Lucknow.



- (11) Pandit Venkatesh Narayan Tewari Sahib, M.L.C., Allahabad,
- (12) Hon'ble Raja Motichand, C.I.E., Benares,
- (13) Pandit Baijnath Sharga, Lucknow,
- (14) Pandit Ramakant Malaviya, Allahabad.

The committee thus constituted was also authorised to co-opt two additional members, if the committee found this necessary in order to complete its inquiry. The committee co-opted Lala Nemi Saran Jain Sahib, M.L.C., Bijnor, a member of the Jain community and Rai Bahadur Pandit Shyam Bihari Misra Sahib, M.A., a retired Deputy Commissioner.

2. On the request of the committee, it was subsequently authorised to co-opt, if necessary, one local member to assist it in making local inquiries. The committee thus co-opted Pandit Mathura Prasad Naithani, Civil Engineer, to help a sub-committee making a local inquiry in Garhwal and Goswami Krishna Chaitanyaji for an inquiry at Brindaban. These two gentlemen took part only in the inquiry for which they were co-opted.

3. The committee has suffered many vicissitudes in its personnel. Goswami Madhusudan Lalji of Brindaban and Swami Mangalnathji of Rishikesh died on May 11 and June 11, 1928, respectively. The Government appointed in their places Swami Madhusudan Achariji of Banda and Swami Adwaitanandji of Rishikesh, but Swami Madhusudan Achariji also died on June 1, 1929. The committee sustained a great loss in the premature death of the Hon'ble Justice Pandit Gokaran Nath Misra Sahib, Judge of the Chief Court of Oudh, which took place on July 5, 1929. The Government on November 30, 1929, appointed Swami Prakashanandji and Rai Rajeshwar Bali Sahib, O.B.E., in place of Swami Madhusudan Achariji and Mr. Justice Misra respectively.

Pandit Govind Ballabh Pant Sahib resigned his membership of the committee on February 9, 1930, and Rai Bahadur Babu Kavendra Narayan Singh Sahib, M.L.C., was appointed in his place on July 19, 1930.

4. Pandit Suraj Nath Sapru, Deputy Collector, was appointed secretary of the committee. He took over charge of his duties on March 20, 1929, and the actual work of the committee also commenced from this date.



5. The committee started by issuing a comprehensive questionnaire and inviting assistance from every section of the public concerned or interested in the subject of its inquiry. The questionnaire was sent to all Hindu leaders in the province and to the heads of the different religious institutions. It also received wide publicity in the Press. For the convenience of persons not willing or able to answer the detailed questionnaire, but still desirous of helping the committee, a list of ten general questions was prepared and sent out.

The whole committee visited several important centres and appointed sub-committees to make inquiries at other places which the whole committee was unable to visit. A number of meetings were held and several local inquiries conducted into the administration of individual temples and institutions, the inquiry into the management of the Shri Badrinath temple in the Garhwal district being the most important.

6. The committee has now submitted its report. The majority report has been signed by twelve members (including the two co-opted members) whilst a minority report is signed by three members including the President. To the majority report are appended two notes of dissent—one by Rai Bahadur Pandit Shyam Bihari Misra and the other by Lala Nemi Saran Jain. Two members, Pandit Venkatesh Narain Tiwari and Pandit Ramakant Malaviya, have not signed either report, nor have they submitted any note.

7. These reports and notes display wide divergence of opinion in important particulars and Government hope that the Hindu public will give careful attention to the recommendations made so that general criticism may clarify the issues involved. Meanwhile Government will keep an open mind on the whole subject and will not undertake legislation until a clearly expressed desire has been manifested for this by the general Hindu public.

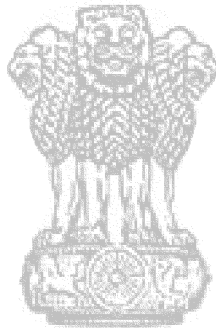
8. The Governor, acting with his Ministers, tenders his grateful thanks to the Hon'ble Raja Sir Rampal Singh and the members of the Hindu Religious and Charitable Endowments Committee for the arduous labours they have carried out and for embodying their views and proposals in a clear and interesting report which is now being published for general information.



*Order.*—Ordered that a copy of the resolution be forwarded to the President and members of the committee for information.

Ordered also that the resolution be published in the *United Provinces Government Gazette* for general information.

By order of the Governor,  
acting with his Ministers,  
J. M. CLAY,  
*Secretary to Government,*  
*United Provinces*



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